

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

VS.

JEFFREY W. YOUNG, JR,

Defendant.

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) NO. 1:19-cr-10040-JTF-1

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TRANSCRIPT OF JURY TRIAL PROCEEDINGS

BEFORE THE

HONORABLE JOHN T. FOWLKES, JR.

March 28, 2023

MORNING SESSION

LASHAWN MARSHALL, RPR
OFFICIAL COURT REPORTER
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1 **KRISTIE GUTGSELL,**
2 having been first duly sworn, was examined and testified
3 as follows:

4 **DIRECT EXAMINATION**

5 **BY MS. PAYERLE:**

6 Q. Good morning, Ms. Gutgsell.

7 A. Good morning.

8 Q. Would you please just introduce yourself to the
9 jury, your name and what city you live in.

10 A. Kristie Gutgsell. And I live in Henderson,
11 Tennessee.

12 Q. And --

13 **THE COURT:** Excuse me. Could you spell that
14 last name?

15 **THE WITNESS:** Sure. It's G-U-T-G-S-E-L-L.

16 **THE COURT:** Thank you.

17 **MS. PAYERLE:** I understand that T is silent.
18 Sorry.

19 **THE WITNESS:** That's right.

20 **BY MS. PAYERLE:**

21 Q. Okay. Now, Ms. Gutgsell, do you know the defendant
22 Jeffrey Young?

23 A. I do.

24 Q. Okay. And could you identify him somewhere in the
25 courtroom today based on where he's sitting and something

1 he's wearing?

2 A. He's sitting right there, and he has on glasses and
3 a suit.

4 Q. Okay.

5 **MS. PAYERLE:** May the record reflect that the
6 witness has identified the defendant in the courtroom?

7 **THE COURT:** The record will reflect the witness
8 has pointed out and identified the defendant.

9 **BY MS. PAYERLE:**

10 Q. How do you know Mr. Young?

11 A. I worked for him as his office manager.

12 Q. And where was that?

13 A. In Jackson, Tennessee.

14 Q. Is that Madison County?

15 A. Yes, ma'am.

16 Q. What -- what was Preventagenix?

17 A. It was a medical clinic.

18 Q. Okay.

19 **MS. PAYERLE:** I'm going to show the witness a
20 series of photographs. I believe it's 12 pages. If I
21 may approach, Your Honor.

22 **THE COURT:** Go ahead.

23 **MR. PENNEBAKER:** That's been premarked
24 Government's 601.

25 **BY MS. PAYERLE:**

1 Q. And ask you to page through them and see if these
2 are photographs of various locations at Preventagenix.

3 (A document was passed to the witness.)

4 **BY MS. PAYERLE:**

5 Q. Okay.

6 A. Yes, ma'am, that's the clinic.

7 Q. Thank you very much.

8 A. Yes, ma'am.

9 **MR. PENNEBAKER:** Your Honor, I'd like to
10 introduce into evidence the 12 pages that are located at
11 Government's 601, marked Page 8 through 19. Actually be
12 11 pages. My math is wrong.

13 **THE COURT:** Eleven, I'm assuming, pages with
14 photos of the clinic; is that correct?

15 **MS. PAYERLE:** Yes, Your Honor.

16 **THE COURT:** We'll go ahead and receive. Be
17 collective Exhibit Number 7.

18 (The above-mentioned item was marked as
19 Exhibit No. 7.)

20 **BY MS. PAYERLE:**

21 Q. And let's just take a look at the page that we
22 internally marked as 11 and publish to the jury. Thank
23 you.

24 And what are we looking at here? Is that the front
25 of Preventagenix?

1 A. It is. It's the outside of the front of the
2 clinic.

3 Q. Okay. We can take that down.

4 How long, Ms. Gutgsell, were you the office manager
5 there?

6 A. I started in August of 2015, and I quit in January
7 of 2017.

8 Q. And did you replace somebody as the office manager?

9 A. I did.

10 Q. Who was that?

11 A. Heather Goslee.

12 Q. As the office manager, what were your jobs?
13 Describe generally.

14 A. I was in charge of paying different bills for the
15 clinic, making sure that the schedule -- excuse me.

16 Q. That's okay. Take your time.

17 A. That the schedule was ready for the day, that the
18 employees were ready for the day, that Jeff was ready to
19 work for the day.

20 Q. And I just saw you hesitate a moment. Are you --
21 are you a little nervous?

22 A. Just a little bit, yeah.

23 Q. Why is that?

24 A. It's -- this has been a very difficult time.

25 Q. Okay. You said you were in charge of the schedule

1 for the day.

2 At this time, I'd like to show you a document that
3 the government has marked Exhibit 703.

4 **MS. PAYERLE:** I just need to find it in my stack
5 here, Your Honor. I apologize.

6 I'm going to seek assistance of those more
7 organized than I.

8 **BY MS. PAYERLE:**

9 Q. Show you 703. It's a five-page document.

10 Is this a schedule, an example of a schedule for
11 the day for patients that you just talked about?

12 (A document was passed to the witness.)

13 A. Yes, ma'am.

14 **MS. PAYERLE:** All right. The government moves
15 to admit.

16 **THE COURT:** We'll receive it. Exhibit
17 Number 8.

18 (The above-mentioned item was marked as
19 Exhibit No. 8.)

20 **MS. PAYERLE:** Be number -- is that 8? Thank
21 you.

22 **BY MS. PAYERLE:**

23 Q. All right. Let's go ahead and publish Exhibit 8.

24 All right. Just kind of describe to the jury what
25 we're looking at here as an example document.

1 A. So this would be basically all the patients for the
2 day. It would be their -- their appointment time, their
3 name, and then what their chart number was in the system,
4 their telephone number, who the provider was, which was
5 Jeff, what type of insurance they had. And then in the
6 comments was typically what they were there for.

7 Q. All right. Let's go ahead and just blow up, so the
8 jury can see, maybe the top third of the page.

9 You see on the right there are several patients
10 where the description is one-month follow-up. What were
11 those patients coming in to get?

12 A. Most of those patients would be coming in to get a
13 controlled prescription.

14 Q. Why -- why would it be labeled one-month follow-up?

15 A. Because they came in monthly to get those
16 controlled prescriptions.

17 Q. And every time they came in the door, did the
18 clinic bill for an office visit to their insurance?

19 A. Yes, ma'am.

20 Q. And if they didn't have insurance, how would the
21 clinic get paid?

22 A. They would pay out of their own pocket.

23 Q. And what was that? Do you remember what that cost?

24 A. There were different prices for whether it was an
25 established patient, a new patient, or if they had to

1 take a drug screen or not. It would be right around a
2 150, \$175, if I remember correctly, depending on a drug
3 screen or if they were established or not.

4 Q. Okay.

5 **MS. PAYERLE:** And Ms. Silverberg, if we could
6 just blow up, so they can see the rest of this page, the
7 middle third and then the bottom third.

8 This is all for one day.

9 And then let's go to the next page and let the
10 jury take a look at that second page of that same day.

11 Okay. Back out and take -- look at the bottom
12 half.

13 **BY MS. PAYERLE:**

14 Q. Ms. Gutgsell, is this the typical number of
15 patients that Mr. Young would see on a day, this sort of
16 full- to two-page list?

17 A. Yes, ma'am.

18 Q. And about a typical kind of distribution of the
19 number of one-month follow-up patients versus other
20 issues?

21 A. Correct. Yes, ma'am.

22 Q. All right. Next up, I'd like to show you what's
23 been marked Exhibit 602.

24 **THE COURT:** Before we get to that, what was the
25 date of this schedule?

1 **MS. PAYERLE:** Thank you.

2 **THE COURT:** Are you able to see?

3 **MS. PAYERLE:** Oh, I'm sorry. Let's go back to
4 Page 1, and blow up the very top there.

5 **THE WITNESS:** The date of this is actually 1/11
6 of 2017.

7 **MS. PAYERLE:** Okay. That's January 11th. Thank
8 you.

9 **THE COURT:** Do you know the number of patients
10 that day? If you don't know, that's fine.

11 **THE WITNESS:** I don't know. No, sir, I don't
12 know.

13 **THE COURT:** That's fine.

14 **MS. PAYERLE:** All right. Ms. Silverberg, we can
15 put that down.

16 **BY MS. PAYERLE:**

17 Q. And I'm going to show you exhibit -- what's been
18 marked as 602, and this is a one-page exhibit. It's the
19 floor plan with some edits you'll tell the jury about at
20 Preventagenix?

21 A. Correct.

22 **MS. PAYERLE:** Move to admit, Your Honor.

23 **THE COURT:** We'll go ahead and receive it, floor
24 plan of the clinic.

25 (The above-mentioned item was marked as

1 Exhibit No. 9.)

2 THE COURT: That'll be Number 9.

3 MS. PAYERLE: And would you publish,

4 Ms. Silverberg, Exhibit 602.

5 BY MS. PAYERLE:

6 Q. All right. So you've just seen a list, or you've
7 just talked about a list of patients that were on the
8 schedule. So focusing specifically on the list of
9 patients that were sort of officially scheduled at the
10 clinic, would you describe for the jury where they would
11 come into the clinic on this floor plan?

12 A. Okay. So typically where it says "main entrance,"
13 that was the front door. And then they would walk in and
14 go to the right, which is Suite B. And then there's an
15 area right there where it says "patient seating." That's
16 where patients would come in and seat. And then the
17 desk, that's where they would check in with the
18 receptionist.

19 Q. Okay. And then if they were called back to be seen
20 by Mr. Young, where would they go?

21 A. Okay. So if you see to the right of where it says
22 "office staff desk," there's a door. Yes, ma'am, right
23 there.

24 Q. I circled it. There we go. Okay.

25 A. So they would go through that door, and that would

1 take you to the back part where the patient rooms, the
2 lab, the triage area and all that is.

3 Q. Okay. The patient rooms.

4 Okay. And could you describe for the jury sort of
5 what the waiting room looked like in terms of the
6 patients who were there during the time that you worked
7 at Preventagenix?

8 A. Like as far as what the patients looked like?

9 Q. Yes. And was it empty or full, that kind of thing.

10 A. It was always full.

11 The -- the patients, a lot of them looked as if
12 they had issues.

13 Q. Okay. And, of course, you're under oath, and so
14 now is not the time to be polite. If you could just
15 describe to the jury more specifically what you observed
16 with Mr. Young's patients.

17 A. As if they were strung out.

18 Q. Okay. Now, where was -- where was your office on
19 this map?

20 A. Okay. So if you look back at the main entrance,
21 that area right there is kind of like a common area as
22 you walk in the front door. And if you go to the left,
23 that would be the business side. And my office -- you go
24 through that door, and my office was -- Jeff's office was
25 in the very end.

1 Q. Here?

2 A. No, other -- the other end.

3 Q. All right. Over here somewhere?

4 A. Down by where it says "door," all the way at the
5 end of the corner.

6 Q. So over here?

7 A. Yes. And then mine would be right in front of his.

8 Q. Right here?

9 A. No.

10 Q. No?

11 A. On top, I guess I should say. Sorry.

12 Q. Okay.

13 A. And then the files would be farther down, like in
14 the third room.

15 Q. Okay. Now, you talked about this sort of -- the
16 process for the patients that we saw on that list. Did
17 everybody who was getting prescriptions from Jeffrey
18 Young go -- go through the waiting room and wait to get
19 called back?

20 A. No, ma'am.

21 Q. Explain briefly what you mean by that.

22 A. Jeff had a lot of friends and a lot of people that
23 would come in through -- if you see in the back where it
24 says "lab," there's -- there is a back door beside the
25 lab that's not on this piece of paper.

1 Q. And actually while you're talking about that, can
2 we please publish for the jury Exhibit -- I believe
3 it's 7 and our internal page marking 16.

4 Maybe a different page. That will be Page 9 of
5 Exhibit 7. And what are we looking at here?

6 A. That is the actual back door of the clinic.

7 Q. Okay. And so let's go back to the floor plan at
8 Exhibit 9.

9 So you said some patients came in through that back
10 door. Were there other ways that people who were getting
11 prescriptions came into the clinic to see Mr. Young?

12 A. Sure. Some would come in the main entrance and go
13 to the left, like where my office is and his office was.
14 Some would still walk into the main patient area, and
15 they were recognized by the -- the receptionist, and they
16 would get up, because that door that is right there in
17 the regular patient seating was always locked. Yes,
18 correct. And the receptionist would recognize them as
19 being one of Jeff's friends. And they would just,
20 without questions asked, get up and go and lock the door,
21 and they would just walk back there.

22 Q. Okay. So these -- these people who bypassed the
23 normal patient procedure, I know you've described they'd
24 come into the office through various ways. But just for
25 simplicity, can we sort of call them back-door patients?

1 A. Sure. Sure.

2 Q. Okay. And can you also describe -- was there a
3 category of patients called VIPs at the clinic?

4 A. Yes.

5 Q. Okay.

6 A. That's different.

7 Q. They're different. Okay.

8 A. Yes.

9 Q. Can you explain to the jury who VIPs were?

10 A. Jeff had a system set up that if you paid, I
11 believe it was a thousand dollars, that was for a year of
12 what he called like a concierge service to where they
13 would get private access to him, whether it'd be Facebook
14 Messenger, telephone calls, not having to wait in the
15 waiting room. They would always get to get called back
16 first. Those were the VIP patients.

17 Q. And did that -- did that program really take off,
18 that thousand dollars a year to get special access to
19 Jeffrey Young?

20 A. When I was there, no, it didn't. I didn't know
21 many patients that were a part of that.

22 Q. But you did have people with special access, these
23 back-door patients who weren't paying special premiums?

24 A. Correct. Those are two different types of
25 patients.

1 Q. All right. Can you name the names of these --
2 let's call them back-door patients that would come in to
3 see Mr. Young?

4 A. Sure. Like Ben Elston, Daphne Joyner, Alexandria
5 Gray.

6 Q. Were there any people that have fame or sort of
7 notoriety in some way?

8 A. Oh, yes. He was -- he was friends with a lot of
9 musicians, rock stars, popular groups.

10 Q. About how many times a week did you see back-door
11 patients come in to see Mr. Young and bypass these normal
12 doctor's office procedures?

13 A. Well, it happened on a daily basis, so it was
14 several times a day. So if I had to classify, like, for
15 a week, I would say at least 10 times, 10 people a week.

16 Q. And over the time that you were there, can you
17 estimate the number of these sort of back-door patients,
18 the total number of people that came in, in alternate
19 ways through the clinic?

20 A. Oh, well, considering I worked there for a little
21 over a year, I would have to say it was well over a
22 hundred different people.

23 Q. All right. Let's talk a little bit about these
24 people. Can you put them in sort of a categories? Was
25 there anything that they had in common?

1 A. I mean, I guess some of the people did have
2 different things in common.

3 Q. Okay. Let's -- first of all, were they men and
4 women?

5 A. They were both. Yes, men and women.

6 Q. Okay. So who were the men? Like, what did they
7 have in common?

8 A. Most of the men were musicians, buddies that Jeff
9 had that, you know, he either grew up with or played
10 music with.

11 Q. Okay. And did the women have anything in common?

12 A. Most of them were pretty women who were either
13 sleeping with Jeff or attracted to Jeff or Jeff was
14 attracted to.

15 Q. And let's start with the women, if we could.

16 Can -- can you sort of estimate the quantity of women who
17 were part of this back-door group of a hundred that
18 you're talking about?

19 A. Probably more than half were women.

20 Q. And how did you know that he was sleeping with them
21 or trying to sleep with them or vice versa?

22 A. He bragged about it, and you could also hear it.

23 Q. What do you mean by "hear it"?

24 A. He would have sex with them during the working day
25 in his office.

1 Q. And where were you that you could hear?

2 A. In my office.

3 Q. So right next door?

4 A. Correct.

5 Q. What specifically, if you could tell the jury,
6 would he say when he was bragging about it?

7 A. There was tap-that-ass Tuesday, tap-that-ass
8 Thursday. There was -- he was going to have a nooner,
9 which was during lunch hour.

10 He would, after he was done, put his fingers in my
11 face for me to smell.

12 Q. And pardon me, but for the -- for jurors who might
13 not know, when you say "tap that ass," what is -- is that
14 slang?

15 A. For he's going to have sex with these people.

16 Q. Can you name some of these women that were in this
17 sort of back-door category who you knew he was sleeping
18 with?

19 A. Sure. Courtney Howell, Anastasia Brown, Daphne
20 Joyner.

21 Q. Sorry. Was it Anastasia Brown?

22 A. Uh-huh.

23 Q. Okay. And Daphne Joyner. Do you know if she
24 worked at the clinic?

25 A. She did.

1 Q. Okay. Was she also known as Daphne Montoya?

2 A. She was, yes, ma'am.

3 Q. Okay. Now, you mentioned the name Courtney Howell.

4 Did you witness an incident regarding Courtney Howell?

5 A. I did.

6 Q. Could you tell the jury about that, please?

7 A. She was a patient as well as a person that Jeff had
8 sex with on a -- many occasions.

9 One time she came in on the business side and went
10 back to his office, which was right next to mine, and he
11 came back there. They talked. She had a drink. And
12 then later, once he was done with patients, he came in,
13 shut the door, had sex with her, because I could hear it,
14 and then left to go see patients again. And when I left
15 my office, I looked over, and she was asleep on his
16 couch.

17 Q. Did you see what condition she was in? When she
18 first came in the office, how did she look?

19 A. She was fine.

20 Q. And did you ever see her sometime between the time
21 that she was fine and the time that she was asleep?

22 A. Yes.

23 Q. And what was that sort of intermediate period like?

24 A. Like she was having a hard time holding her head
25 up. Thought she was sleepy. You know, something was

1 going on with her.

2 Q. Was Mr. Young prescribing controlled substances to
3 Courtney Howell?

4 A. Yes, ma'am.

5 Q. And how do you know that?

6 A. There's a thing called PMP that you can pull to
7 see. It was something that the receptionist would do on
8 a daily basis before the patients come in to see their
9 different controlled prescriptions. And then Jeff would,
10 most of the time, chart it and -- in their charts.

11 Q. Okay. And just because we haven't heard the term
12 yet, can you just describe for the jury what the PMP is?

13 A. Yes.

14 Q. By the way, is it also called a CSMD?

15 A. Yes.

16 Q. Okay. Same document?

17 A. Same thing.

18 Q. Okay.

19 A. It's the same thing. Basically it's a database
20 that physicians have access to, and it's supposed to help
21 you see -- if they're getting a controlled substance from
22 any doctor, it will show that. And -- and you're
23 supposed to check to make sure people aren't doctor
24 shopping or getting overprescribed or getting, you know,
25 different medications on a monthly basis. It was -- it

1 was something that we did, that the receptionist did on a
2 daily basis. They would pull that and put it on the
3 front of the chart.

4 Q. And so through looking at the PMP, you could see
5 the prescriptions that Mr. Young was writing to various
6 people?

7 A. Correct.

8 Q. Okay. I guess, do you have anything to share about
9 other women that fall into this category of back-door
10 patients?

11 A. Most all of those women were receiving controlled
12 substances as well.

13 Q. Okay. You also mentioned -- let's talk more about
14 the men who were coming in the back door.

15 Can you name a few of -- I think you mentioned a
16 gentleman named Ben Elston?

17 A. I did, yes, ma'am.

18 Q. Did you know somebody named Jay Green?

19 A. Yes, ma'am, I do.

20 Q. Did he fall into that category?

21 A. He did.

22 Q. What did Jay Green do for a living?

23 A. I believe he was a police officer for another
24 county, not Madison County. I don't remember which one.

25 Q. And did Mr. Young ever ask any favors of Jay Green?

1 A. He did.

2 Q. And explain what kind of things he would ask Jay
3 Green to do for him.

4 A. He -- besides being his bodyguard, he went out with
5 Jeff a lot and acted as his bodyguard. But he -- since
6 he was a police officer, he was able to look up different
7 things. You know, if Jeff had a warrant or anybody filed
8 anything against him, Jay was able to look up in whatever
9 database to see if anything like that had happened.

10 Q. And did Mr. Young prescribe controlled substances
11 to Jay Green?

12 A. I do not know.

13 Q. Okay. Was there another police officer named
14 Bryant whom he -- with whom he was friends?

15 A. Brian Spencer?

16 Q. Is he a police officer?

17 A. Yes, ma'am.

18 Q. Okay. Were they -- was he friends with Mr. Young?

19 A. Yes.

20 Q. All right. And was -- was Brian or somebody Brian
21 was related to getting prescriptions from Mr. Young?

22 A. His wife Lydia.

23 Q. And did Mr. Young ever ask Brian to look up
24 information?

25 A. Yes.

1 Q. Okay. What kind of information?

2 A. The same thing, to see if -- if warrants were filed
3 or if his -- if Jeff's ex-wife had filed any kind of, you
4 know, harassment against him. She threatened that often
5 with him, and so he wanted to know if she did, in fact,
6 follow through with what she said.

7 Q. And then you also mentioned that -- that Jay Green
8 would serve as a bodyguard. Did he have anybody else who
9 he would call his bodyguard?

10 A. Ben Elston as well.

11 Q. Okay. And did he tell you -- did he tell you why
12 he needed a bodyguard?

13 A. Jeff, as he would like to say, had a lot of haters,
14 and he thought that he needed protection from these men.

15 Q. And did they -- did they bodyguard him at the
16 clinic or in other places?

17 A. Like the clubs or any establishments that Jeff
18 would go to where it was more of a drinking atmosphere,
19 anything like that.

20 Q. Did Jay Green and Ben Elston drink with him?

21 A. Yes.

22 Q. Okay. And was he prescribing to Ben Elston as
23 well?

24 A. Yes.

25 Q. What about rock stars or people who were famous?

1 Was there anybody like that in his orbit --

2 A. Yes.

3 Q. -- that came in through the back door?

4 A. Yes.

5 Q. Do you know any names?

6 A. Scott Bartlett.

7 Q. Do you remember why Scott Bartlett was famous?

8 A. He was in or is in a band. And I don't know the
9 name of it right now. Maybe can tell you in a few
10 minutes.

11 Q. Yeah, if you think of it, let us know.

12 A. Sure.

13 Q. And let's get back to Ben Elston, though, one of
14 his -- one of his bodyguards.

15 **MS. PAYERLE:** At this time, Your Honor, the
16 government is going to show the witness -- checking on
17 the page count here. It's a 364-page document. We will
18 not discuss each page, I promise, which --

19 **BY MS. PAYERLE:**

20 Q. Is this Ben Elston's patient file that was kept at
21 Preventagenix?

22 (A document was passed to the witness.)

23 A. Yes, ma'am.

24 **MS. PAYERLE:** Okay. At this time, the
25 government moves to admit Ben Elston's patient file.

1 **THE COURT:** Go ahead and receive it
2 collectively. It will be Exhibit 10.

3 (The above-mentioned item was marked as
4 Exhibit No. 10.)

5 **MS. PAYERLE:** And this is Exhibit 10.

6 **BY MS. PAYERLE:**

7 Q. Let's take a look at Exhibit 10.

8 Publish just Page 199, if we could.

9 First, I'd like to just familiarize the jury with
10 this kind of document. Are these -- is this kind of
11 document found throughout patient files at Preventagenix?

12 A. Yes, ma'am. These are toxicology reports.

13 Q. All right. And let's just zoom in to the top half
14 to sort of get oriented.

15 And the top half here, we have the patient's name.

16 And who's that?

17 A. Ben Elston.

18 Q. And the requesting physician, who's that?

19 A. Jeff Young.

20 Q. The patient's date of birth. And on the right, the
21 date that the -- says "date collected"?

22 A. Correct. Okay. His date of birth is [REDACTED] '77,
23 and then the date collected is 11/17/2015.

24 Q. What was collected?

25 A. His urine.

1 Q. Okay. And then 11/20/2015, is that the date that
2 you received the report at Preventagenix?

3 A. Correct. That's when it came back to
4 Preventagenix.

5 Q. All right. Specimen type is urine. And then under
6 "medications," there's three listed: amphetamine,
7 carisoprodol, and hydrocodone. Do you see that?

8 A. Yes, ma'am.

9 Q. And what did -- what did those indicate?

10 A. That indicated the medications that Jeff prescribed
11 him.

12 Q. Okay. And then let's back out of that and look at
13 the bottom half, the summary of quantitative results
14 there.

15 Okay. What are we looking at at here?

16 A. Okay. So on the first column, it says "drug name."
17 That is what drugs were in his system, in his urine.

18 Q. Is that sort of the drugs they were testing for?

19 A. No. That was everything that was in his system.

20 Q. Okay. But then under --

21 A. Oh, yes. I see what you're saying. Everything
22 that -- yes, I understand now. I'm sorry.

23 Yes. Everything that they tested for and then the
24 results show, you know, detected or not detected.

25 Q. Okay. So the ones that say "detected," to you that

1 meant it was in his system, and "not detected" means it
2 wasn't in his system?

3 A. Correct.

4 Q. And then under "outcome," there's "consistent" and
5 "inconsistent." What does that mean? The next column,
6 "outcome, consistent and inconsistent."

7 A. Okay. So basically it said that amphetamine was
8 detected in his system, and that's consistent with what
9 Jeff prescribed.

10 Q. Okay. And then let's look at an inconsistent, so
11 carisoprodol?

12 A. Is not -- excuse me -- not detected, which makes
13 that inconsistent because Jeff does prescribe him that
14 drug, but it was not in his system, so therefore, it
15 makes it an inconsistent outcome.

16 Q. All right. And was there anything on this screen
17 that particularly concerned you? And actually let me
18 back up because I want to lay some foundation for this.
19 Let me back up.

20 **MS. PAYERLE:** Back out of that, if you wouldn't
21 mind.

22 No, I'm sorry.

23 **MS. SILVERBERG:** Sorry. Sorry.

24 **MS. PAYERLE:** Yeah. Okay. You got it? I give
25 terrible instructions.

1 **BY MS. PAYERLE:**

2 Q. Whose handwriting is there at the bottom?

3 A. That is my handwriting.

4 Q. Okay. And you said -- what did you write there at
5 the bottom?

6 A. "Counseled patient and offered rehab. Patient
7 stated he didn't have a problem."

8 Q. Why did you counsel this patient?

9 A. Because he failed his drug screen for other drugs
10 that Jeff did not prescribe to him.

11 Q. Okay. So let's go ahead and blow up the middle
12 piece again there.

13 And what's benzoylecgonine? What did that mean to
14 you?

15 A. I believe that to be cocaine.

16 Q. And then what other drugs? Like morphine,
17 nordiazepam, oxazepam, temazepam, what was the problem
18 with those?

19 A. Those are also drugs that Jeff did not prescribe
20 him.

21 Q. But they were detected in his system?

22 A. Yes, ma'am.

23 Q. And hydrocodone and hydromorphone?

24 A. Hydrocodone was in his system, and Jeff prescribed
25 it. And then the hydromorphone is a metabolite, I

1 believe, of the hydrocodone.

2 Q. Okay. So there's a lot of drugs in his system, and
3 you counseled him. You offered him to get rehab, and he
4 said --

5 A. He didn't have a problem.

6 Q. Said he didn't have a problem.

7 Why -- why were you counseling him? I mean, in
8 other words, was that part of your job sometimes?

9 A. It became part of my job, especially when it was
10 friends of Jeff's, to try to get rid of patients like
11 that, that he was continually writing controlled
12 prescriptions to, even though they were consistently
13 failing drug screens.

14 Q. And did you believe Ben Elston fell into that
15 category?

16 A. He did, yes, ma'am.

17 Q. What happened after you tried to get rid of Ben
18 Elston?

19 A. Jeff would just write him the prescription anyway
20 after office hours, at home, meet him in the parking lot,
21 whatever. However he did it, he would still get the
22 prescriptions.

23 Q. Did you talk to Mr. Young about this encounter you
24 had with Ben Elston?

25 A. I don't remember this specific time, but there

1 was -- I don't know if it was this time or another time
2 that I spoke with Jeff about it, but it -- I have spoke
3 with Jeff about it many times.

4 Q. And specifically you've talked to Jeff Young about
5 Ben Elston failing drug screens?

6 A. Correct.

7 Q. And what was Mr. Young's reaction?

8 A. He wasn't surprised, and it was just a fleeting
9 thought for him. He didn't really care one way or the
10 other.

11 Q. Did it happen with some regularity that you or the
12 staff would try to dismiss patients for one reason or
13 another, and Mr. Young would continue prescribing to them
14 or allow them to return?

15 A. Yes, often. That happened often.

16 Q. And can you think of some examples of that?

17 A. Well, right here with Ben Elston.

18 Q. Anybody else you can think of?

19 A. Yes, ma'am.

20 Q. All right. Go ahead and name names.

21 A. Tricia Stansell; Bethany Pusser. I can't name just
22 right off the top of my head, but there are several. If
23 I can look at a list, I can point them out to you.

24 Q. Okay.

25 A. I'm sorry.

1 Q. That's okay.

2 Now, you testified that some of these kind of
3 back-door patients were locally famous or connected
4 people, like rock stars, musicians, things like that?

5 A. Correct.

6 Q. Can you tell the jury a little bit about
7 Mr. Young's attitude toward fame for himself?

8 A. He craved fame. He needed fame. He believed that
9 he was famous. He wanted to get fame any way that he
10 possibly could. He wanted to be the center of attention.
11 He was the center of attention very often, whether it
12 hurt people or not.

13 Q. I'm going to show you another exhibit, a one-page
14 exhibit marked -- and we can take this down. Thank
15 you -- marked 603.

16 (A document was passed to the witness.)

17 **BY MS. PAYERLE:**

18 Q. Do you recognize this as a -- an advertisement that
19 Mr. Young posted?

20 A. I do.

21 Q. Okay.

22 **MS. PAYERLE:** Move to admit, Your Honor.

23 **THE COURT:** We'll go ahead and receive it. It's
24 a one-page document. It will be Number 11.

25 (The above-mentioned item was marked as

1 Exhibit No. 11.)

2 **MS. PAYERLE:** And let's publish 603 -- or
3 sorry -- Number 11, please. Exhibit 11.

4 **BY MS. PAYERLE:**

5 Q. Ms. Gutgsell, where did you -- where did you see
6 this advertisement posted?

7 A. Facebook.

8 Q. And it says "sail away with the Rock Doc."
9 Whose photo is that in the picture?

10 A. That's Jeff Young.

11 Q. And who is the Rock Doc?

12 A. That was also Jeff Young.

13 Q. Okay. Tell the jury about the Rock Doc.

14 A. I'm not real sure how he got that name, but he --
15 he went by the "Rock Doc" every chance that he got, but
16 he's not a doctor.

17 Q. And did he ever try to publicize that image in some
18 way or create some kind of media content?

19 A. Daily.

20 Q. Did there come a time when he became interested in
21 a reality TV show?

22 A. Yes, ma'am.

23 Q. Tell the jury about that.

24 A. He hired a producer and a film guy to come in and
25 record his life, from the time he woke up until the time

1 he went to bed, for a week, and wanted to start a -- like
2 a reality show, and he called it "Rock Doc."

3 Q. And did, in fact, people create this show for him?

4 A. It was on YouTube. So besides being anywhere and
5 besides YouTube, I'm not sure of, but it was recorded and
6 published on YouTube.

7 Q. And did you see a trailer for this show on YouTube?

8 A. I have.

9 MS. PAYERLE: And I -- the government has a -- I
10 believe has a clip on a CD labeled Document 608, so we
11 would move to enter that into evidence as well.

12 MR. FERGUSON: I do have a question on this, if
13 we could sidebar.

14 MS. PAYERLE: Yes.

15 (Bench conference on the record, with
16 Mr. Ferguson and Ms. Payerle only, out of the hearing of
17 the jury.)

18 MR. FERGUSON: Is it the whole -- it's the whole
19 thing?

20 MS. PAYERLE: Not the whole episode. It's like
21 a three-minute trailer.

22 MR. FERGUSON: I would --

23 MS. PAYERLE: It's the -- it's like a trailer
24 for the show.

25 MR. FERGUSON: I think the whole exhibit needs

1 to be shown and not just pieces and parts.

2 **MS. PAYERLE:** Well, I mean, it is the whole --
3 it is -- it was -- it was a trailer that he published on
4 YouTube as a piece.

5 **MR. FERGUSON:** Okay.

6 **MS. PAYERLE:** So it's like the whole trailer.

7 **MR. FERGUSON:** Okay.

8 **MS. PAYERLE:** So he published a -- like a
9 25-minute episode, but then he published like a
10 three-minute preview of --

11 **MR. FERGUSON:** We're going to play a 25-minute
12 episode?

13 **MS. PAYERLE:** I wasn't going to, but I -- not
14 right now. Her -- because she's just testified she
15 saw -- I mean, the trailer's three minutes, and it's a --
16 it's a piece --

17 **MR. FERGUSON:** We'll come back to it. I'm okay
18 right now. I just want to make sure what I was about to
19 say because this --

20 **THE COURT:** All right. Let's get on with it.

21 **MS. PAYERLE:** It's a complete trailer.

22 **THE COURT:** Three minutes.

23 **MR. FERGUSON:** I'm trying to make objections
24 around the jury.

25 **THE COURT:** I appreciate it. Thanks.

1 **MR. FERGUSON:** Thank you.

2 **MS. PAYERLE:** Thanks.

3 (Bench conference concludes, and the proceedings
4 continue as follows:)

5 **MS. PAYERLE:** Okay. Government moves to admit
6 the sort of three thirty -- it might be
7 three-minutes-and-30-second-or-so trailer for the Rock
8 Doc TV show.

9 **THE COURT:** I'm assuming the witness has seen it
10 before because she hasn't identified anything.

11 **MS. PAYERLE:** Right. She has, Your Honor. I
12 described it to her, and she said she'd seen it.

13 **THE COURT:** Go ahead.

14 **MS. PAYERLE:** Okay. Let's go ahead and play.
15 And I believe -- do we have this as a CD?

16 **MS. SILVERBERG:** No, I have it right here. Oh,
17 yeah, he -- the CD's there for him.

18 **MS. PAYERLE:** All right. Let's go ahead and
19 play.

20 (The above-mentioned item was marked as
21 Exhibit No. 12.)

22 (An audio-video recording was played.)

23 **BY MS. PAYERLE:**

24 Q. Okay. I'm going to stop it. We will play the
25 whole thing. I just want to stop at certain parts and

1 ask you questions.

2 Here he says the clinic had a heavy focus on
3 preventative medicine.

4 In reality, what percentage of patients would you
5 estimate were just there to get controlled substances
6 month after month?

7 A. I would say well over half, 70 percent.

8 Q. And what percentage of those patients actually paid
9 cash out of pocket for those appointments?

10 A. 25 to 30 percent.

11 Q. Did -- taking the group of those cash-pay patients,
12 did cash-pay patients ever come in for sort of what's
13 called ordinary preventative medicine, or did the
14 cash-pay patients always just get controlled substances?

15 A. So there were some that came in for various things
16 that were not controlled substances, not -- not very many
17 at all, though.

18 Q. So I guess just to clarify, the majority of
19 cash-pay patients were there for controlled substances?

20 A. Yes, ma'am.

21 **MS. PAYERLE:** Okay. Let's keep playing.

22 (An audio-video recording was played.)

23 **BY MS. PAYERLE:**

24 Q. Okay. Did Mr. Young talk about his image a lot?

25 A. Yes.

1 Q. The way he looked?

2 A. Yes.

3 Q. And tell the jury about that.

4 A. He -- he liked the fact that he didn't look like a
5 typical provider with his tattoos and his, you know, hat
6 on backwards and didn't wear the typical white coat. He
7 was, you know, someone just like the gentleman said, that
8 should be in the front line of a rock band.

9 Q. Okay. Let's keep going.

10 (An audio-video recording was played.)

11 **BY MS. PAYERLE:**

12 Q. Did Mr. Young go on this local Jackson radio show a
13 lot?

14 A. He did. He had to pay to be on that. It was for
15 advertising.

16 Q. Okay.

17 **MS. PAYERLE:** Let's keep going.

18 (An audio-video recording was played.)

19 **BY MS. PAYERLE:**

20 Q. Who is -- who is this gentleman here?

21 A. That's Scott Bartlett.

22 Q. Okay. He was the rock star you were talking about?

23 A. Correct.

24 Q. Okay.

25 **MS. PAYERLE:** Let's keep going.

1 (An audio-video recording was played.)

2 **BY MS. PAYERLE:**

3 Q. Where -- where were they sitting?

4 A. That's in Jeff's office.

5 Q. Okay.

6 **MS. PAYERLE:** Let's keep going.

7 (An audio-video recording was played.)

8 **BY MS. PAYERLE:**

9 Q. That gentleman we just saw talking earlier saying
10 there's a lot going on there, who is that?

11 A. Kevin Phillips, Jeff's best friend that he refer to
12 as Uncle Kevin.

13 Q. Okay. Did he have another nickname besides Uncle
14 Kevin?

15 A. Puffy K.

16 **MS. PAYERLE:** And let's keep on going to the
17 end. Thanks.

18 (An audio-video recording was played.)

19 **MS. PAYERLE:** Okay.

20 **THE COURT:** About how much longer with this
21 witness?

22 **MS. PAYERLE:** Maybe another hour, Your Honor.

23 **THE COURT:** An hour? We'll go ahead and take
24 our morning break at this time.

25 **MS. PAYERLE:** Yes, sir. Thank you.

1 **THE COURT:** Y'all have heard some proof now, but
2 don't discuss the case amongst yourselves or allow anyone
3 to discuss it with you while we take our break. And
4 remember, no independent investigations. Okay. So I'm
5 going to go ahead and excuse you to the jury room.
6 Fifteen, twenty minutes or so, and we'll get back to it.

7 (Jury out at 11:15 a.m.)

8 **THE COURT:** And Ms. Gutgsell, remember over the
9 break, don't discuss your testimony with anyone.

10 **THE WITNESS:** Yes, sir. Thank you.

11 **THE COURT:** You can step down.

12 **THE WITNESS:** Yes, sir. Thank you.

13 (The witness complies with the request.)

14 **THE COURT:** Okay. We'll be in recess.

15 **MS. PAYERLE:** Thank you.

16 (Recess at 11:16 a.m. until 11:40 a.m.)

17 **THE COURT:** Anything from either side before we
18 bring in the jury?

19 **MS. PAYERLE:** No, Your Honor.

20 **MR. FERGUSON:** No, Your Honor.

21 **THE COURT:** I do just have a couple of small
22 things.

23 With this witness, as well as with the prior
24 witness, each of the government's lawyer has reminded
25 them that they're under oath. It didn't seem like they

1 were having -- you were having any question -- any
2 problems with the answers or anything, so I'm just
3 inquiring why y'all do that.

4 **MS. PAYERLE:** Judge, it was just that with the
5 line of questioning, the witness had seemed to express
6 some concern about sort of describing patients in a way
7 that was candid because it seemed impolite to use the
8 words that they, I think, felt they wanted to use to
9 describe those folks. And so I think it was just a
10 matter of kind of helping the witness understand that
11 they wouldn't be viewed as impolite and that because of
12 the oath that they've taken, they're really required to
13 speak candid about the perception.

14 So in both cases, I think it was because the
15 witness had expressed, earlier, some hesitation about
16 kind of being -- using the words that they used to
17 described these patients. I think it's just a product of
18 being kind of play people.

19 **THE COURT:** Well, I'll appreciate it if y'all
20 would not refer to their oath anymore, unless you're
21 having difficulty with the witness.

22 **MS. PAYERLE:** Yes, Your Honor.

23 **THE COURT:** They didn't express any, so just
24 tell the witness go ahead and answer candidly.

25 **MS. PAYERLE:** Yes, sir.

1 **THE COURT:** If there's a problem, then we'll
2 deal with that.

3 And the other thing is at the rate we're going
4 with these witnesses, I think we'll be here through the
5 month of April.

6 **MS. PAYERLE:** Well, I don't think so, Judge,
7 respectfully. There are some witnesses at the beginning
8 that are going to take a while because they have to
9 establish -- for example, the jury has never seen these
10 toxicology reports before, and the jury doesn't know what
11 a PMP is and some of the basics. And so these things,
12 when they're woven in, just kind of take a while.

13 These witnesses were key insiders within the
14 office that saw a lot of things, and there's just a lot
15 of topics to cover. But I think the Court will see that,
16 as the week progresses, the witnesses will get shorter
17 and shorter and shorter. And, you know, there will be
18 some longer witnesses because there's just a lot of
19 evidence and documents in the case, but we are trying to
20 move through it as expeditiously as possible.

21 **THE COURT:** I appreciate that. But just keep in
22 mind that -- the word you just used is foremost:
23 expeditiously.

24 **MS. PAYERLE:** Yes, Judge.

25 **THE COURT:** Okay. All right.

1 **MS. PAYERLE:** Thank you.

2 **THE COURT:** Mr. Ferguson, anything?

3 **MR. FERGUSON:** No, Your Honor.

4 **THE COURT:** All right. Let's bring in the
5 jurors, please.

6 (Jury in at 11:43 a.m.)

7 **THE COURT:** You may proceed.

8 **THE WITNESS:** Thank you.

9 **THE COURT:** Okay. Folks, we're about ready to
10 get started. One little note: Mr. Richmond communicated
11 to me it's kind of cold in here right now, as did
12 Mr. Herrin. In fact, when I came back in from my
13 chambers, it seemed like the temperature's gone down
14 about 10 degrees.

15 **THE JURY:** It's a little chilly.

16 **THE COURT:** It's a little cool; that's right.

17 But I kind of told y'all yesterday, it's an old
18 building, and this happens. Mr. Herrin is calling GSA --
19 they maintain the building -- and asked them to adjust
20 it. Well, sometimes when they adjust it, it will go from
21 like it is right now up to about 85. So hopefully we can
22 find a happy median. Congress won't approve us a new
23 building or anything like that, so we have to bear with
24 it. So be patient with us.

25 All right. I think we are ready now to go ahead

1 and proceed with the questioning of this -- this witness.

2 Ms. Payerle?

3 **MS. PAYERLE:** Thank you, Your Honor.

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CONTINUED DIRECT EXAMINATION**BY MS. PAYERLE:**

Q. Ms. Gutgsell, when we left off, we were watching Mr. Young's trailer on YouTube. And he ended it by saying "Preventagenix is an experience." And so I want to talk to you a little bit about the experience of working at Preventagenix.

What was the kind of atmosphere like working there?

A. It could vary from day to day. It was -- there was always rock music playing loud. There -- most of the time, we were happy and like a family. We all loved each other very much. Everybody, you know, cheered each other on, but, you know, some days were harder than others.

Q. And we'll get into some of the harder days in a moment.

I want to ask you. Did Mr. Young prescribe controlled substances to his employees while you were working there?

A. He did.

Q. And can you just, just so we have it on the record, name those employees?

A. Carla Wright, Daniel Rogers, Katie Lindsey, Chelsea Carroll, Alexis -- I don't know her last name right

1 now -- Tessa James, Madison Wooley. There were several.

2 Q. Okay. Did somebody named Dottie Deforest work
3 there?

4 A. Dottie, yes.

5 Q. What about Rebecca McGowen (phonetic)?

6 A. Yes.

7 Q. How about the Cortina Stewart?

8 A. She worked in the lab. She wasn't employed by
9 Jeff, but she worked in the clinic, yes.

10 Q. And I believe you testified Daphne Montoya. Did
11 she work there?

12 A. She worked before I came there and then for a
13 couple of weeks when I was there.

14 Q. Okay. Were you -- did he prescribe controlled
15 substances to you?

16 A. He did.

17 Q. Explain to the jury about that.

18 A. He prescribed me Xanax, one milligram, three times
19 a day. I took Xanax from a previous provider before I
20 started working for Jeff -- excuse me; I'm sorry -- but I
21 was only prescribed .25 milligrams once or twice a day,
22 and he raised it to one milligram three times a day.

23 Q. Did he ever do an evaluation or diagnose you
24 through a diagnosis process for anxiety?

25 A. No.

1 Q. Did he increase the dose slowly or immediately?

2 A. Immediately.

3 Q. Did he drug test you?

4 A. We had been drug tested throughout the time we
5 worked there, but in order to get Xanax from him, no. He
6 didn't ever order any of us to be drug tested.

7 Q. And did he warn you of the risks of addiction?

8 A. No.

9 Q. Ms. Gutgsell, did you become addicted to Xanax
10 while you worked at Preventagenix?

11 A. Yes, ma'am.

12 Q. Aside to the Xanax addiction, were there any --
13 first of all, how did that Xanax addiction impact your
14 life?

15 A. It basically kept me numb from reality. I didn't
16 understand that I was addicted to them at the time. It
17 helped me mask things that were important that I
18 should've paid better attention to.

19 Q. And what were some of those things?

20 A. Working in the environment that I was working in,
21 the toxic environment, the very -- just the day-to-day
22 operations that were wrong.

23 Q. And you said that -- that you were working in a
24 day-to-day environment with a -- sort of the situation
25 was wrong. Did you aid in that situation, sort of

1 creating that situation?

2 A. I did. I helped Jeff keep the clinic open.

3 Q. And have you taken responsibility for your actions
4 in keeping Preventagenix open and for the distributions
5 of drugs that occurred there?

6 A. I have.

7 Q. And explain to the jury what you've done to take
8 responsibility.

9 A. This is very hard, so forgive me, but I also,
10 throughout this process, was charged with aiding and
11 abetting Jeff in prescribing controlled substances, which
12 I did help him do by keeping the clinic open, loaning him
13 money to be able to pay employees, keep the doors open.
14 He couldn't have done that if I didn't help him.

15 Q. Did you plead guilty to that crime?

16 A. I did.

17 Q. As part of that guilty plea, Ms. Gutgsell, did you
18 enter into a cooperation agreement with the government?

19 A. I did.

20 Q. And is your testimony today part of that agreement?

21 A. Yes, ma'am.

22 Q. Through your testimony today, do you hope to obtain
23 a benefit?

24 A. Sure.

25 Q. Okay. And how are you, I guess -- aside from the

1 Xanax addiction and the guilty plea, were there other
2 impacts to your life in terms of the experience of
3 working at Preventagenix?

4 A. Oh, of course. Financially, it's been a huge
5 struggle, you know. I had to hire an attorney.

6 Q. Did you lend Mr. Young any money?

7 A. I did.

8 Q. Did you ever get it back?

9 A. I did not.

10 Q. How much was it?

11 A. Right at \$20,000.

12 Q. How about personally? Did your interactions with
13 Mr. Young lead to any personal consequences for you?

14 A. It did. I mean, I was -- I was harassed
15 constantly. I was in fear and terrified of him and his
16 people. I suffer from anxiety, depression, PTSD.

17 Q. And why were you so afraid of him?

18 A. Because you're either for Jeff or against Jeff, and
19 if you were not for him, there was no neutral ground with
20 him. If you weren't for him, you were automatically, in
21 his eyes, against him, and he would make your life a
22 living hell.

23 Q. What -- what did he do? What do you mean make it a
24 living hell?

25 A. You know, he would just attack through himself,

1 through his people, through social media, through -- I'm
2 sorry -- through social media, through anything and any
3 way. I was followed. I was harassed. I was scared to
4 go to the grocery store. I was scared for my son to be
5 out in public with me because I never knew what was going
6 to happen next.

7 Q. Just to be clear, though, were you ever -- you
8 were never physically attacked, is that right, by
9 Mr. Young?

10 A. Oh, yes.

11 Q. Okay. And actually, go ahead and tell the jury
12 that story.

13 A. Jeff tended to get drunk often. He would come into
14 work still drunk from the night before, get drunk after
15 clinic. And telling Jeff something that was difficult --
16 if something, you know, happened, he would fly off into a
17 rage, would get drunk. He's spit vodka at me. He's
18 kicked me. He's screamed at me. He's then turned around
19 and made me feel guilty as to I'm the only one that can
20 help him; I'm the only one that can save him. I'm the
21 only one -- he would kill himself if it wasn't for me.

22 It was very -- an emotional abuse. It wasn't
23 always just, you know, attacking. Sometimes it was, you
24 know, him telling me how much he relied on me and how
25 much help -- he couldn't do it without me.

1 Q. So is it fair to say he was sometimes very kind to
2 you?

3 A. Oh, yes. Absolutely.

4 Q. Okay. In the context of your guilty plea, did you
5 take responsibility for two patients in particular --

6 A. I did.

7 Q. -- who were prescribed drugs by Mr. Young?

8 A. Yes, ma'am.

9 Q. Okay. And who are those folks?

10 A. Tricia Stansell and Bethany Pusser.

11 Q. Can you tell the jury about Tricia Stansell?

12 A. Tricia is -- she was actually the mother of Tessa
13 James who worked for us as well.

14 Q. And what -- why did you take responsibility for
15 aiding and abetting prescriptions to Tricia Stansell?

16 A. Because Tessa had told me that her mother was an
17 addict, recovering addict, had -- you know, had problems
18 with controlled substances before, and I knew that before
19 her coming into the clinic and Jeff prescribing her
20 medication.

21 Q. And did you tell Mr. Young what you knew about
22 Tricia Stansell?

23 A. I did.

24 Q. And what was his reaction?

25 A. He didn't care.

1 Q. How about Bethany Pusser? Who was she?

2 A. She was someone that reached out on Facebook. I
3 can't remember if she reached out to me or Jeff. But --
4 and Jeff would post on Facebook, you know, if you have an
5 addiction problem, contact me; I can help. And through
6 that post, he did -- she did contact one of us. And she
7 came into the clinic to get help with her addiction
8 issues.

9 Q. Did Jeff Young have any addiction counselors on
10 staff?

11 A. No.

12 Q. Did he run a methadone program?

13 A. No.

14 Q. To your knowledge, did he take any classes or
15 special training for treating addiction medicine?

16 A. Not that I'm aware of. No, ma'am.

17 Q. Okay. Did -- did Jeff Young, for a while, sort of
18 start decreasing the medicine that Bethany Pusser was on?

19 A. He did. At some point in time in the beginning, he
20 was prescribing her the controlled substances that she
21 was abusing and was -- he was trying to wean her down
22 from those drugs.

23 Q. Did that ever change?

24 A. Yes. Then he -- she started dating his best friend
25 Kevin, and then he just started writing her more --

1 different drugs.

2 Q. And what different drugs? Do you know?

3 A. I know she got Adderall and I believe Klonopin or
4 something like that, like a Xanax or a Klonopin or
5 something to help relax.

6 Q. And did -- and when you say -- sorry.

7 For the record, when you say "Kevin," did you mean
8 Kevin Phillips, the person we were talking about earlier?

9 A. Yes, ma'am.

10 Q. Uncle Kevin?

11 A. Uncle Kevin, yes, ma'am.

12 Q. Beyond the patients that you were -- you've just
13 talked about, did you ever question or confront Mr. Young
14 about his behavior of reinstatement of other patients,
15 things like that?

16 A. Yes.

17 Q. And how would he respond?

18 A. Most of time he would give an explanation of why he
19 didn't care and he was the -- he was the doctor; he was
20 the provider; he knew what was best.

21 Q. Did you ever confront him about prescribing to
22 somebody who was pregnant?

23 A. She was -- the person that I'm thinking of, she was
24 pregnant and getting a Nubain shot, an injection, which
25 is a controlled substance.

1 Q. What was her name?

2 A. Alex Gray.

3 Q. Okay. And what did Mr. Young say when you
4 confronted her -- confronted him?

5 A. That it doesn't affect the baby, that drug doesn't
6 affect the baby.

7 Q. Okay. Did you become aware of the requirement that
8 the clinic find a supervising physician, like a doctor to
9 oversee Nurse Practitioner Young's work?

10 A. Yes, ma'am.

11 Q. During the time that you were there, did Mr. Young
12 always have a supervising physician to look over his
13 work?

14 A. No, ma'am.

15 Q. How did he handle that in the paperwork?

16 A. He would -- he never -- if a medical doctor had
17 quit as overseeing physician, he never changed any of the
18 documentation as far as, like, on the prescription pad.
19 He just left who was there previously, until he was able
20 to find another overseeing physician, and then we would
21 order new prescription pads and put the correct name on
22 there. So there were times that we were basically just
23 going off the old preceptor's name.

24 Q. And "preceptor" is a word you're using
25 interchangeably with "supervising physician"?

1 A. Yes, ma'am. I'm sorry.

2 Q. No, that's just fine.

3 How many supervising physicians did Mr. Young go
4 through during the time that you were at Preventagenix?
5 You can name them if it helps to remember.

6 A. Okay. When I came on board, it was Charles Alston,
7 and he quit shortly after I started working there. Then
8 it was Dr. Yogesh for approximately two weeks. Then it
9 was Dr. Alperovich. I don't know exactly how long he
10 was -- several months that he was involved. And then at
11 the end was Dr. Rudin.

12 Q. When you say "at the end," what made -- sort of
13 what was the end? When did that happen? What was the
14 end of things?

15 A. For me, the end was January 11th, when the raid
16 happened.

17 Q. Okay. And by "raid," you mean a lawfully executed
18 search warrant at the premises of Preventagenix?

19 A. Correct.

20 Q. Okay. What was -- let's talk about -- you say
21 Dr. Yogesh quit within a couple of weeks. After that,
22 there was somebody named Dr. Alperovich?

23 A. Yes, ma'am.

24 Q. What was the arrangement with Dr. Alperovich? What
25 was his job, and what was he going to get for it?

1 A. He got paid \$1,500 a month, and he was supposed to
2 come in and -- once a month -- and review medical charts
3 of patients that Jeff saw.

4 Q. And did you say how much he would get paid for
5 that? I'm sorry.

6 A. 1,500 a month.

7 Q. Okay.

8 A. I believe it was 1,500.

9 Q. And Dr. Alperovich come to review patient records
10 in February of 2016?

11 A. Yes, ma'am, I believe so.

12 Q. All right. I'm going to show you what's been
13 marked Government's 201. It is a three-page document.

14 Are these text messages between you and Mr. Young
15 during the time that Dr. Alperovich was reviewing patient
16 charts?

17 (A document was passed to the witness.)

18 A. Yes, ma'am.

19 **MS. PAYERLE:** Okay. Government moves to admit.
20 Go ahead and take a look.

21 **THE WITNESS:** Yeah, just . . .

22 **THE COURT:** We'll go ahead and receive it. It
23 will be Number 13.

24 **THE WITNESS:** Thank you.

25 **MS. PAYERLE:** Thank you.

1 Let's go ahead and publish Number 13, please.

2 (The above-mentioned item was marked as
3 Exhibit No. 13.)

4 **BY MS. PAYERLE:**

5 Q. All right. So we're going to start on Page 1. And
6 who is on the right there, and who is on the left of
7 these text messages?

8 A. On the right, it says "Joshua's mommy," which is
9 me.

10 Q. Who's on the left?

11 A. Jeff Young, which is the defendant.

12 Q. All right. How about we read through -- you be
13 you, and I'll be Mr. Young.

14 A. "Okay. Did you talk to him in person?"

15 Q. "Yep. He shouldn't charge \$1,500 for one clinic."

16 A. "He only sign charts once. He will need to come
17 back before the month is over to sign again."

18 Q. Okay. Let's go down to the next slide.

19 "Especially if we are paying \$3,000."

20 What -- why was it 3,000 instead of 1,500?

21 A. At the time, Jeff had two clinics: One was
22 Preventagenix out north on Murray Guard Drive, and then
23 he had a downtown clinic in Jackson as well that a
24 nurse -- a different nurse practitioner was at.

25 Q. Okay. And then Mr. Young says: "I'm having to

1 hold his hand and explain every patient."

2 What was happening in real time while you were
3 texting Mr. Young about this?

4 A. Dr. Alperovich was actually in Jeff's office going
5 through the different charts that were pulled for him to
6 review, and Jeff was having to explain to him each page
7 as far as -- Jeff's handwriting is hard to read, first of
8 all -- but explaining what he wrote and what the
9 different drug tests, toxicology reports meant, the
10 different -- why he prescribed what he prescribed.

11 Q. He says: "This is a disaster, painful."

12 Let's keep going to the next page, if we could.

13 And what did you say?

14 A. "Oh, dear Jesus, WTF for?"

15 Q. He says: "I'm still here. He's going over every
16 PMP."

17 Go ahead.

18 A. "Be sure to show his ass all the patients we fire.
19 Oh, my God, did Katie pull a lot of pain patients out for
20 him."

21 Q. Mr. Young says "evidently," and then let's see what
22 you respond.

23 A. I said "fuck."

24 Q. And then he says: "I will show him."

25 Okay. So could you describe Mr. Young's -- first

1 of all, what was this interaction about pulling the pain
2 patients? Why were you and he upset that Dr. Alperovich
3 was seeing the pain patients?

4 A. Because there are so many of them, and -- and he
5 didn't want Dr. Alperovich to realize how many pain
6 patients he was seeing.

7 Q. Did Mr. Young talk to you about his attitude
8 generally toward the requirement that he have a
9 supervising physician?

10 A. He didn't like the idea of having one. He felt as
11 if he was more qualified than most medical doctors and
12 didn't need anybody's recommendation or -- or anything.
13 He thought he could handle it himself.

14 Q. All right. At the bottom, it says: "We need what
15 you discussed."

16 Let's go to the next page.

17 That's Mr. Young saying that. And at the top, what
18 did you respond?

19 A. "I've talked to Corey about it, and he's actually
20 going to do what I talked about, so none of our -- none
21 of us are implicated. LOL."

22 Q. So what is -- what are you talking about here?

23 A. My ex-husband Corey was -- we were talking about
24 getting a stamp with Dr. Alperovich's name to stamp his
25 name on the charts instead of physically showing

1 Dr. Alperovich the charts.

2 Q. And who was going to do that stamping?

3 A. Corey was.

4 Q. And that's so that none of you were implicated?

5 A. Correct.

6 Q. And Mr. Young knew about this plan?

7 A. Yes.

8 Q. Was Dr. Alperovich the only supervising physician
9 that you thought about or actually did get a stamp with
10 his name?

11 A. I don't believe that we ever got the stamp for
12 Dr. Alperovich. There was a stamp there, before I
13 started working there, for Dr. Alston.

14 Q. And did you ever see Jeff Young using Dr. Alston's
15 stamp?

16 A. Yes.

17 Q. Okay. Describe the circumstances under which he
18 was stamping Dr. Alston's name.

19 A. There ever several different times that the board
20 of nursing sent out a list of patients that they wanted
21 to -- they were doing an investigation of Jeff, the board
22 of nursing. And they were wanting to see different
23 patient charts, several, several, several patient charts.
24 And we would get the receptionist to pull the charts, and
25 I would go through the charts looking at different things

1 to see when the last time a supervising physician had
2 actually been in and reviewed this chart, if they'd ever
3 reviewed the chart; flag different things if I thought
4 Jeff needed to look at them. And he would go through
5 those charts and add more stuff, add more documentation
6 to the charts and use Dr. Alston's stamp to stamp the
7 chart as if Dr. Alston was there and signed the chart.
8 That was required of -- a physician was required to
9 actually sign a hundred percent of pain patient charts, a
10 hundred percent.

11 Q. So this -- so he was making it look to the medical
12 board as though that had happened?

13 A. Correct.

14 Q. I see.

15 Did you -- did there come a time when
16 Dr. Alperovich also quit?

17 A. Yes, ma'am.

18 Q. All right. I'm going to show you a document that
19 is seven pages. It's internally marked as 202.

20 (A document was passed to the witness.)

21 **BY MS. PAYERLE:**

22 Q. Are these text messages with you around the time
23 that Dr. Alperovich quit?

24 A. Yes, ma'am.

25 **MS. PAYERLE:** Okay. Move to admit.

1 **THE COURT:** We'll go ahead and receive it, seven
2 pages of texts.

3 **MS. PAYERLE:** Thank you.

4 **THE COURT:** Exhibit Number 14.

5 (The above-mentioned item was marked as
6 Exhibit No. 14.)

7 **MS. PAYERLE:** Let's go ahead and publish
8 Exhibit 14, please.

9 Okay. So let's fast forward. Go ahead and flip
10 to the next page. Flip to the next page, to be
11 expeditious.

12 Oh, back up.

13 **MS. SILVERBERG:** Oh, sorry.

14 **MS. PAYERLE:** There we go. Sorry.

15 **BY MS. PAYERLE:**

16 Q. Okay. Let's -- let's blow up the top half of this
17 page down to, I think, like here, let's say. There we
18 go.

19 All right. Is this a series of text messages
20 between you and Dr. Alperovich?

21 A. Yes, ma'am.

22 Q. And is this in June -- on June 9th of 2016, the
23 column --

24 A. Yes, ma'am. Yes, ma'am.

25 Q. Okay. What do you -- what do you say to him on

1 that day?

2 A. I sent a message to him that said: "Good morning.
3 I'm not telling Jeff about you resigning until this
4 afternoon when the other NP" -- which is nurse
5 practitioner -- "comes in. Please don't say anything to
6 him this morning about it."

7 Q. Dr. Alperovich says: "I was going to call him.
8 Why is it a concern?

9 And what did you say?

10 A. "He's a loose cannon. I don't want patients to
11 suffer this morning. At least when April gets here, she
12 can see the patients."

13 Q. Okay. Why -- I guess, what was your concern about
14 Jeffrey Young and telling him that Dr. Alperovich had
15 quit that day?

16 A. I knew that he would become irate and start
17 drinking and --

18 Q. And did he?

19 A. He did.

20 Q. And have you already told the jury what happened on
21 that day?

22 A. Yes. That's the day that he spit vodka and kicked
23 me.

24 Q. After you lost Dr. Alperovich, how long was it
25 before you found another supervising physician?

1 A. It was at least 30 days, if not longer.

2 Q. And let's take a look at a nine-page document the
3 government's labeled 205.

4 (A document was passed to the witness.)

5 **BY MS. PAYERLE:**

6 Q. And is this a series of e-mails with a man named
7 Andrew Rudin and documents attached?

8 A. Yes, ma'am.

9 Q. And who is Andrew Rudin?

10 A. He was the final overseeing doctor, overseeing
11 physician.

12 **MS. PAYERLE:** Move to admit, Your Honor.

13 THE COURT: We'll go ahead and receive them.

14 **MS. PAYERLE:** Thank you.

15 **THE COURT:** Nine pages, exhibit 15.

16 (The above-mentioned item was marked as
17 Exhibit No. 15.)

18 **MS. PAYERLE:** Let's go ahead and publish
19 Exhibit 15.

20 **BY MS. PAYERLE:**

21 Q. Let's show -- let's go ahead and flip down a page.

22 Is this a contract that you helped sort of
23 facilitate between Jeff Young and Andrew Rudin?

24 A. Yes, ma'am.

25 Q. On Page 3, at the bottom half, I think, starting at

1 J, K, and L -- keep going all the way down. There we go.

2 Did Mr. Rudin, in this contract, agree to review
3 and sign patient charts, visit the campus of
4 Preventagenix clinic, and do the other things indicated
5 here?

6 A. Yes, ma'am.

7 Q. Did he ever, to your knowledge, visit
8 Preventagenix?

9 A. No, he never did.

10 Q. All right. At this point, I'm going to show you --
11 I'm going to show you what's been internally marked as
12 Government's 204. It's just one page. It's a single
13 text message.

14 (A document was passed to the witness.)

15 A. Yes, ma'am.

16 **BY MS. PAYERLE:**

17 Q. And is that a text message about Dr. Rudin?

18 A. Yes, ma'am.

19 Q. And is it to you? Sorry. From you?

20 A. It's from me, yes, ma'am.

21 Q. Okay.

22 **MS. PAYERLE:** Move to admit, Your Honor.

23 **THE COURT:** Go ahead and receive the text. That
24 will be Exhibit 16.

25 (The above-mentioned item was marked as

1 Exhibit No. 16.)

2 **BY MS. PAYERLE:**

3 Q. Who was Dr. Rudin to Mr. Young?

4 A. He was a friend of -- they were each other's
5 friend.

6 Q. They're friends.

7 And where did Dr. Rudin live at the time?

8 A. I believe in Chicago. It was definitely not
9 Tennessee. It was somewhere like Chicago or somewhere in
10 that area.

11 Q. Okay. And I think I asked you this. Did he ever,
12 to your knowledge, visit Preventagenix?

13 A. No, ma'am.

14 Q. I'm going to show you -- let's go ahead and pull
15 up -- what was 204, the last exhibit we just --

16 **MS. SILVERBERG:** 16.

17 **MS. PAYERLE:** 16. Okay. Let's pull up 16.

18 **BY MS. PAYERLE:**

19 Q. And what did you text Tessa James there?

20 A. It says: "Do we have a "Dr. Rudin" stamp in yet?"

21 Q. Was the plan also to get a stamp for Dr. Rudin's
22 signature?

23 A. Correct. Yes, ma'am.

24 Q. To be used in the same way as the prior stamps we
25 talked about?

1 A. Not only that, but also it was common to stamp a
2 doctor's signature on certain different orders that they
3 necessarily didn't have to sign in person, but --

4 Q. Okay.

5 A. -- primarily for the charts.

6 Q. I'm going to show you -- and as quickly as I can
7 here -- some further text messages with Mr. Young and a
8 four-page document labeled Government's 216.

9 (A document was passed to the witness.)

10 **BY MS. PAYERLE:**

11 Q. Are these text messages between you and Mr. Young
12 about Dr. Rudin?

13 A. Yes, ma'am.

14 **MS. PAYERLE:** Move to admit.

15 **THE COURT:** Be 17.

16 (The above-mentioned item was marked as
17 Exhibit No. 17.)

18 **MS. PAYERLE:** Thank you.

19 Let's go ahead and publish Exhibit 17, please.

20 **BY MS. PAYERLE:**

21 Q. Ms. Gutgsell, was it easy or difficult to get
22 Dr. Rudin to pay attention to the clinic or to do his
23 job?

24 A. It was very difficult.

25 Q. All right. Let's start -- these start actually at

1 the bottom, so let's go through -- all the way to the --
2 kind of the last of these. These start at the bottom and
3 go back up.

4 **MS. PAYERLE:** So Ms. Silverberg, if you could
5 just stroll to the last page of the exhibit.

6 **BY MS. PAYERLE:**

7 Q. Okay. And they start with a text message from you,
8 so let's go blow up the top three texts, like the
9 whole -- the whole part there in writing.

10 We'll start with -- you be you; I'll be Mr. Young,
11 and start at the bottom.

12 A. "Did you get the signed contract to Nashville
13 attorney?"

14 Q. "Yes. Meeting with him in Nashville, Friday,
15 February the 13th."

16 A. "Good. What time?"

17 Q. Okay. Let's back out of that and go to the second
18 page and blow it up, please.

19 "The 13th is a Monday. Sorry. It's January,
20 Friday the 13th," says Mr. Young.

21 What do you say?

22 A. "Okay. Good. I'm going to have to fly you to
23 Chicago soon. Pick a weekend. I need tons of stuff
24 signed by Rudin again. It's impossible to get him to
25 sign and mail back."

1 Q. Mr. Young says: "Okay."

2 Let's go to the first -- or the next page up. What
3 do you say?

4 A. "I can fly you for free from Jackson. I'll give
5 you enough cash from Preventagenix. Rich will never
6 know."

7 Q. Who's Rich?

8 A. He was one of the owners.

9 Q. Okay. Mr. Young says: "Perfect."
10 You say?

11 A. "I'll plan with Rudin when a good time for -- when
12 is good for him, unless you want to."

13 Q. (Indiscernible).

14 **THE COURT REPORTER: Excuse me. What did you**
15 **say?**

16 **BY MS. PAYERLE:**

17 Q. "You can?"

18 Let's go to the top.

19 Mr. Young says: "You know my schedule better than
20 I."

21 A. "He's so difficult to nail down on anything."

22 Q. Mr. Young says: "Yeah, the perfect preceptor."

23 Did he ever talk to you about why Mr. Rudin or
24 Dr. Rudin was the perfect preceptor?

25 A. Because he wasn't ever in the clinic, wasn't

1 breathing down Jeff's neck, wasn't asking questions. He
2 didn't care what was going on either.

3 Q. And did Dr. Rudin ever sign any charts for the
4 clinic?

5 A. He -- he never came to the office to sign any
6 charts, but I did mail him charts for him to review and
7 sign.

8 Q. Did you mail him complete charts?

9 A. No. I would just mail him the page that I needed
10 him to sign.

11 Q. Okay. And did he sign and send those back?

12 A. He did.

13 Q. And did Mr. Young pay Dr. Rudin his thousand
14 dollars for a month?

15 A. He did.

16 Q. Ms. Gutgsell, who hired and fired people at
17 Preventagenix during the time that you were there?

18 A. Jeff or I did.

19 Q. Okay. And who made the decision ultimately about
20 who got hired and fired?

21 A. Jeff.

22 Q. Did he pay the rent for Preventagenix out of a
23 Preventagenix account?

24 A. He did. I wrote the check, he signed it, and I
25 mailed it.

1 Q. Okay. And did he lease or maintain the Murray
2 Guard property for anything else besides the medical
3 practice that we've been discussing? Like, was there
4 anything else going on there besides the medical practice
5 Preventagenix?

6 A. Well, like, he would have different Botox parties
7 or art parties or just regular parties in general.

8 Q. But related to the medical practice or unrelated?

9 A. Unrelated.

10 Q. Okay. Was Preventagenix primarily a medical
11 clinic?

12 A. Yes, ma'am.

13 Q. Okay. You testified about sort of your -- how you
14 took responsibility for your role in Preventagenix. For
15 as long as you've known him, did Jeff Young ever take
16 responsibility for his part?

17 A. He has never taken responsibility.

18 Q. Has he blamed others?

19 A. Yes, ma'am.

20 Q. Can you tell the jury who -- who he's blamed for
21 his troubles over the years?

22 A. He's blamed me. He's blamed his ex-wife. He's
23 blamed the last office manager before me. He's blamed
24 the government. He's blamed everyone but himself.

25 Q. Let's take a look at what's been premarked as

1 Exhibit 711. It's a one-page document.

2 (A document was passed to the witness.)

3 **BY MS. PAYERLE:**

4 Q. A letter from Humana?

5 A. Yes, ma'am.

6 Q. Dated December 22, 2016, and addressed to Jeff
7 Young?

8 A. Yes, ma'am.

9 **MS. PAYERLE:** Move to admit, Your Honor.

10 **THE COURT:** That will be Number 18, the letter.

11 (The above-mentioned item was marked as
12 Exhibit No. 18.)

13 **MS. PAYERLE:** Number 18. And let's go ahead and
14 publish.

15 **BY MS. PAYERLE:**

16 Q. Now, is this a letter from an insurance company?

17 A. Yes, ma'am. Humana.

18 Q. Let's take a look at the top two paragraphs. It
19 says: "You have been" -- the second paragraph there
20 says: "You have been identified as being within the top
21 one percent of opioid prescribers, excluding
22 oncologists."

23 And he encloses a report. Do you see that?

24 A. Yes, ma'am.

25 Q. Let's back out a little bit or back out to the --

1 Okay. There's handwriting on this letter. Whose
2 handwriting is that?

3 A. That is Jeff's.

4 Q. Was this letter an example of kind of people
5 questioning his methods?

6 A. Yes, ma'am. There was different letters about
7 the -- that were about the same thing.

8 Q. Who else were questioning, at this time, the amount
9 of prescribing that he was doing?

10 A. Other insurance companies. He was being
11 investigated by the board of nursing as well.

12 Q. And did he ever express his belief that somebody
13 was behind all of this?

14 A. Yes. He -- there's the conspiracy theories
15 between, you know, another nurse practitioner in town
16 named John Michael Briley; he was behind it, his ex-wife
17 Dawn, the government, his haters.

18 Q. Okay. You mentioned haters. At this time, have
19 you ever seen a video posted on YouTube about Uncle Kevin
20 talking about Mr. Young and his haters?

21 A. Yes, ma'am.

22 Q. Okay.

23 **MS. PAYERLE:** At this time, Your Honor, the
24 government would admit that video as -- it's marked 609.

25 **THE COURT:** Okay. Video. It will be Exhibit

1 Number 19. How long is it?

2 **MS. PAYERLE:** I believe it's only 30 seconds
3 maybe.

4 It's two minutes and 30 seconds.

5 **THE COURT:** Go ahead.

6 **MS. PAYERLE:** Thank you, Your Honor.

7 (The above-mentioned item was marked as
8 Exhibit No. 19.)

9 (An audio-video recording was played.)

10 **MS. PAYERLE:** I'll take that down.

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THE COURT: I think this is a good place for us to break for lunch.

MS. PAYERLE: Okay. Your Honor, that's fine.

THE COURT: All right. Ladies and gentlemen, your lunch is waiting for you in the jury room back there, so going to take a little time for you to go ahead and enjoy lunch.

Let's see. I'm going to look at that clock. It's almost 12:30, so we'll pick this up at 1:30. Go ahead and enjoy. Remember my admonitions about, you know, independent investigations, things like that. Don't discuss the case. I may have mentioned before, you need to leave your notebooks in your chairs there. They will be there when you come back in. Okay.

Let's go ahead and break for lunch.

(Jury out at 12:23 p.m.)

THE COURT: Remember don't discuss your testimony over the lunch break. Okay?

THE WITNESS: Yes, sir. Thank you.

THE COURT: You can step down.

(The witness complies with the request.)

THE COURT: Okay. We'll be in recess.

MS. PAYERLE: Judge, whatever it's worth, I only

1 have one question, just to your earlier --

2 **THE COURT:** I'm sorry?

3 **MS. PAYERLE:** I only have one more question, to
4 your earlier concern. We've been cutting a fair amount.

5 **THE COURT:** Appreciate it. Thank you. We'll be
6 in recess.

7 (The morning session concluded at 12:24 p.m.)
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C E R T I F I C A T E

I, LASHAWN MARSHALL, RPR, LCR, do hereby
certify that the foregoing 145 pages are, to the best of
my knowledge, skill, and abilities, a true and accurate
transcript from my stenotype notes of the Jury Trial
proceedings on the 28th day of March, 2023, in the matter
of:

United States of America

vs.

Jeffrey W. Young, Jr.

Dated this 28th day of March, 2023

S/ Lashawn Marshall
Lashawn Marshall, RPR, LCR
Official Court Reporter
United States District Court
Western District of Tennessee

EXAMINATION OF KRISTIE GUTGSELL

7

1 CONTINUED DIRECT EXAMINATION

2 BY MS. PAYERLE:

3 Q. Ms. Gutgsell, I have only a few more questions for
4 you. I'd like to show you -- were you Mr. Young's friend on
5 Facebook?

6 A. Yes, ma'am.

7 Q. You saw a lot of his Facebook posts?

8 A. Yes, ma'am.

9 Q. I'm going to show you a one-page document we marked
10 908. Is this a post by Jeff Young about one of his patients?

11 A. Yes, ma'am.

12 MS. PAYERLE: All right. The Government will
13 move to admit.

14 THE COURT: That would be Exhibit No. 20.

15 (Exhibit 20 marked and received.)

16 MS. PAYERLE: Let's go ahead and publish
17 Exhibit 20 to the jury, if you would.

18 BY MS. PAYERLE:

19 Q. Ms. Gutgsell, do you see at the top of the post that
20 says: Six months clean today. So proud of Aaron Beaver --
21 with some numbers in there -- love you, dude. You and your
22 story inspires and humbles me. If you are out there and
23 think there's no hope, please contact us at PREVENTAGENIX and
24 let us help facilitate your recovery and get your life back?

25 A. Yes, ma'am.

EXAMINATION OF KRISTIE GUTGSELL

8

1 Q. And do you see where Jeff Young writes below: This is
2 why I do what I do every day?

3 A. Yes, ma'am.

4 Q. And he says: This is why I put up with all the
5 bullshit and heat?

6 A. Yes, ma'am.

7 Q. He says: This story right here is why I put myself
8 out there on social media. Aaron Beaver and I would never
9 had met had there not been controversial Facebook posts about
10 myself addressing addiction as a disease.

11 Do you see that?

12 A. Yes, ma'am.

13 Q. Can you -- did you know Aaron Beaver?

14 A. I did.

15 Q. Can you tell the story about how Aaron Beaver came to
16 be -- just the very beginning of that story, how he came to
17 be a patient at PREVENTAGENIX?

18 A. It goes back to where Jeff had posted on Facebook
19 about if you need help with addiction, please contact me.
20 And he either contacted myself or Jeff. I don't remember
21 which way it went.

22 Q. And he became a patient at PREVENTAGENIX?

23 A. Yes, ma'am.

24 Q. And was it documented in his patient file that he was
25 suffering from addiction?

EXAMINATION OF KRISTIE GUTGSELL

9

1 A. Yes, ma'am.

2 Q. To opioids?

3 A. Yes, ma'am.

4 Q. Did Jeff Young at some point begin prescribing opioids
5 to Aaron Beaver?

6 A. Yes, ma'am.

7 Q. And do you remember what the name of that drug was?

8 A. No.

9 Q. Okay.

10 A. I don't, no.

11 Q. Thank you. Ms. Gutgsell, is it fair to say that
12 you -- and I think this is just based on what you've
13 testified --

14 MS. PAYERLE: We can take the exhibit down.

15 BY MS. PAYERLE:

16 Q. That working at PREVENTAGENIX was a volatile
17 experience for you?

18 A. Yes, ma'am.

19 Q. Tell the jury, if you would, please, why did you stay
20 for so long?

21 A. It -- if you don't stay on Jeff's team and you do
22 things against Jeff, he goes after you, whether it be through
23 social media, through his friends. Publicly on Facebook, he
24 would just embarrass you and just tell stories and talk about
25 you and harass you and he did that -- I watched it numerous

EXAMINATION OF KRISTIE GUTGSELL

10

1 times, and I didn't want to be a part of that embarrassment.

2 MS. PAYERLE: Your Honor, if I may have just one
3 moment, please.

4 THE COURT: Okay.

5 MS. PAYERLE: Thank you, Your Honor. At this
6 time, we pass the witness.

7 THE COURT: All right. Thank you.

8 And, Mr. Ferguson, is there any cross?

9 CROSS-EXAMINATION

10 BY MR. FERGUSON:

11 Q. Good afternoon.

12 A. Yes, sir. Good afternoon.

13 Q. I've been corrected twice over talking over the
14 witness, so I'm going to try hard not to overtalk you.

15 A. Okay.

16 Q. When did you start with Mr. Young?

17 A. It was August, 2015.

18 Q. And was that after Ms. Goslee had left?

19 A. Yes, sir.

20 Q. And you were friends with Ms. Goslee?

21 A. Yes, sir.

22 Q. And she recommended the job to you?

23 A. No, she did not.

24 Q. She just told you about it or --

25 A. No. She -- I had become friends with Jeff at this

EXAMINATION OF KRISTIE GUTGSELL

11

1 point too.

2 Q. That makes sense. And part of your job was to
3 schedule all of the appointments and the healthcare
4 providers?

5 A. No, that was not. I didn't -- I scheduled patients
6 sometimes, but we had receptionists that scheduled most of
7 those appointments.

8 Q. Okay. I'm going to pass this to you. Did you see
9 this already?

10 A. Yes, sir, I believe this is the same one.

11 Q. It's Exhibit 8 already admitted. This was the
12 schedule that the Government was talking to you about?

13 A. Yes, sir.

14 Q. Did you prepare this?

15 A. No. This is what you can print off from the computer
16 when the -- when a patient calls for an appointment. You put
17 it in the computer, and then you can print, like, the master
18 list, which is what this is.

19 Q. Okay. Well, I just want to zoom in here a little bit
20 over here on this far side on the right where it says
21 "comments"?

22 A. Yes, sir.

23 Q. You were saying that the one-month follow-ups mean
24 what?

25 A. Typically, those patients are coming in for controlled

EXAMINATION OF KRISTIE GUTGSELL

12

1 substances, and they have to come in monthly.

2 Q. Do they have to be controlled substances to be a
3 one-month follow-up?

4 A. That's what these appointments were.

5 Q. Okay. And what is this?

6 A. Echo.

7 Q. Did Jeff do echoes?

8 A. He did not.

9 Q. By echo, do you mean echocardiogram?

10 A. Yes, sir.

11 Q. There was another provider in the clinic that did
12 echoes?

13 A. Yes, sir, on certain days.

14 Q. Certain days?

15 A. Not every day.

16 Q. And you've got: Fasting labs, echoes, follow-up.
17 There's a lot of stuff going on here on a day-to-day basis;
18 is that correct?

19 A. Yes, sir. There's a lot of patients.

20 Q. And for the majority, it's all insurance payments
21 except for -- what does private pay mean? Is that cash?

22 A. Yes, sir.

23 Q. Okay. So you have private pay, commercial insurance
24 is insurance, Medicare is insurance, BlueCare, private
25 insurance, private insurance. There's a lot of -- I think

EXAMINATION OF KRISTIE GUTGSELL

13

1 you were saying there was a lot of people paying cash, but it
2 looks like there's only a handful of cash payments on this
3 day.

4 A. On this day.

5 Q. That's pretty typical for a day?

6 A. Not necessarily. Each day varies.

7 Q. Okay. And then when you have these things that say,
8 like, new patient, wants to see April. Who is April?

9 A. April was another provider that came, I believe, two
10 days a week.

11 Q. Okay. So to be fair, on what's been marked as
12 Exhibit 8, there's at least another person doing echoes, and
13 then there's April, who was another nurse practitioner also
14 in the office on this day; is that correct?

15 A. If it says echo next to the patient, they would be
16 seen for an echo only, correct.

17 Q. And then April was another nurse practitioner?

18 A. Yes. She was only there a couple of days a week.

19 Q. And follow-up, Daniel, see patient drug screen?

20 A. Correct.

21 Q. Who is Daniel?

22 A. Daniel was another employee.

23 Q. Okay. And so this other employee is now doing the
24 drug screens on this patient here?

25 A. No. More than likely, what that meant was Daniel

EXAMINATION OF KRISTIE GUTGSELL

14

1 needed to see the patient because of the patient's drug
2 screen, and if Daniel was being told to come in, it was
3 because of a drug screen -- the patient had failed the drug
4 screen.

5 Q. This being somebody had followed up with a drug
6 screen, and the patient needed counseling?

7 A. It's two different things, actually.

8 Q. Okay.

9 A. So the follow-up would be the patient was there for
10 medication.

11 Q. Correct.

12 A. And also Daniel needed to talk to the patient about
13 their drug screen.

14 Q. Yes, ma'am. So -- but on the chart or on this -- I'm
15 not sure what the sheet is called. What do you call the
16 sheet? Just the appointment list?

17 A. Yes, like, a master list.

18 Q. Master list?

19 A. Yes, sir.

20 Q. There's a notation on here that this person is coming
21 in for a follow-up, and Daniel needs to see them about their
22 drug screen --

23 A. Correct.

24 Q. -- to counsel them about their drug screen?

25 A. Right. That's right. Yes, sir.

EXAMINATION OF KRISTIE GUTGSELL

15

1 Q. Okay. This is not saying that this person is the only
2 person getting a drug screen this day?

3 A. Right. That's just talk to the patient about the drug
4 screen.

5 Q. And there's a number of people that come in, bloody
6 stool, no energy, felt real bad, a new patient. I guess,
7 this new PCP, is that primary care physician?

8 A. Yes, sir, that's what that means.

9 Q. Does that mean that Mr. Young is going to become the
10 PCP?

11 A. More than likely, yes, sir.

12 Q. Okay. They're in need of a primary care physician?

13 A. Correct. Yes, sir.

14 Q. Is it called primary care physician even if he's not a
15 physician? Is it just in the business you called it a PCP?

16 A. PCP, yes, sir.

17 Q. All right. It just means the person who is the
18 general person to kind of keep up with their health?

19 A. Correct. Yes, sir.

20 Q. Somebody has another follow-up, and it's also --
21 apparently, they had needed to have some more testing done
22 that day?

23 A. Yes, sir.

24 Q. Okay. One month follow-up and see Kristie for sleep
25 study?

EXAMINATION OF KRISTIE GUTGSELL

16

1 A. Correct.

2 Q. Who is Kristie?

3 A. That's me.

4 Q. And what are you doing with the sleep study?

5 A. Jeff had sleep study machines in his office, and it
6 was where we could show the patient how to use the machine so
7 they could bring it home with them to get a sleep study done.

8 Q. Okay. Is that a legitimate medical procedure?

9 A. It is, yes, sir.

10 Q. Okay. And it's kind of in the course and scope of
11 what a healthcare provider would provide for their patients?

12 A. Correct. Yes, sir.

13 Q. Thyroid panel, that's within the normal scope and
14 course of what a medical provider would provide for their
15 patients?

16 A. Well, what that thyroid panel draw means, that's a
17 blood test, so the phlebotomist would have drawn that panel,
18 yes, sir.

19 Q. But it's ordered, and somebody in the office does it,
20 and it's sent out --

21 A. Right.

22 Q. -- there's an analysis done, it comes back in, and
23 Jeff would read it and make medical decisions based on it?

24 A. Yes, you're correct.

25 Q. Did you have problems with Jeff -- Mr. Young, and his

EXAMINATION OF KRISTIE GUTGSELL

17

1 not wanting to fire people who had failed drug screens for
2 marijuana?

3 A. Ask me that again.

4 Q. Was there a problem with people would fail a drug
5 screen for marijuana and Jeff would unfire them?

6 A. Marijuana wasn't even on our drug screen.

7 Q. Okay. Y'all just didn't even test for that, did you?

8 A. No, sir.

9 Q. Can you test for it? I don't know.

10 A. I'm assuming you can, but he didn't have it on his
11 screening.

12 Q. Okay. Would it be fair to say he would not have been
13 concerned about it because he was a pro-marijuana advocate?

14 A. Correct.

15 Q. He felt that it was a -- it was just as good as
16 medical drugs, medical prescriptions for treating certain
17 symptoms?

18 A. That's what he believed, yes, sir.

19 Q. And since that time, many states have grown to accept
20 that as part of the medicine prescription regimen for people?
21 It's a dumb way of saying Mississippi and Arkansas have
22 medical marijuana?

23 A. I don't know that. I don't keep up with that.

24 Q. Okay. You talked about back-door patients?

25 A. Yes, sir.

EXAMINATION OF KRISTIE GUTGSELL

18

1 Q. Your concern about back-door patients was, you didn't
2 think they were being charted correctly or that they were
3 getting drugs they didn't need? What's the issue with back
4 door, the VIP back door? What's the concern there?

5 A. Okay. So back-door patients and VIP patients are two
6 totally different things.

7 Q. VIP, people paid extra to have more personal
8 connection to Jeff. He still would see them as patients.
9 The back-door were kind of like his special people?

10 A. Correct. Some of those patients didn't have charts at
11 all.

12 Q. Some of those people were including his attorney that
13 was handling his divorce at that time?

14 A. Yeah, he was actually a back-door patient as well.

15 Q. Mr. Donahoe would come and go and meet with Jeff
16 while -- and this was while Jeff was going through this
17 divorce with Dawn?

18 A. And get prescriptions and injections and shots as
19 well.

20 Q. Okay. Did Jeff ever receive -- as far as you know,
21 without maybe disclosing what the attorney-client
22 conversation was, was there -- during this time at the back
23 door that discussions were held about either Jeff's divorce
24 or whether or not the practice was being run correctly?

25 A. Was that talked about?

EXAMINATION OF KRISTIE GUTGSELL

19

1 Q. Yeah.

2 A. Yes, sir.

3 Q. Jeff was receiving legal advice at this time?

4 A. Jeff had friends that were attorneys as well, yes.

5 Q. And that would come to the back door?

6 A. Yes.

7 Q. And would see the -- be able to be inside the clinic
8 during this time?

9 A. Yes, sir.

10 Q. Okay. When you first started working there to the
11 time of the -- you and I call it -- the raid. The Government
12 called it the legally executed search warrant on the premises
13 of PREVENTAGENIX. The raid --

14 A. Yes, sir.

15 Q. -- did Jeff's behavior, I think you described it as,
16 spiralled?

17 A. It had spiralled.

18 Q. It had gone really bad?

19 A. It had, yes, sir.

20 Q. Did you see that -- did his interaction -- that's a
21 terrible way to ask that. Let me ask you a good question --

22 A. Okay.

23 Q. -- just a second to figure out how to ask you.

24 A. Yes, sir.

25 Q. Was some of it in relation to the divorce, the stress

EXAMINATION OF KRISTIE GUTGSELL

20

1 of his divorce?

2 A. It was, yes, sir.

3 Q. It was really bad, wasn't it?

4 A. It was terrible.

5 Q. I mean, they were going after each other?

6 A. Nonstop.

7 Q. Each of them were giving it as good as they were
8 getting it?

9 A. Yes, sir.

10 Q. On social media, in person, through third parties, it
11 got hard?

12 A. Yes, sir.

13 Q. It affected the job?

14 A. Yes, sir.

15 Q. It affected Jeff?

16 A. It did.

17 Q. It -- maybe use the word -- broke him?

18 A. I could say that too, yes, sir.

19 Q. It was ugly?

20 A. It was.

21 Q. Did you know Jeff before you started working with him
22 previously as a nurse practitioner?

23 A. I knew of him. I didn't know him on a friendly basis.

24 Q. You knew of his reputation within the community as a
25 good healthcare provider?

EXAMINATION OF KRISTIE GUTGSELL

21

1 A. No, not even so much that. He became very vocal as
2 his divorce, everybody saw him on Facebook.

3 Q. Jackson is small?

4 A. Small town, yes.

5 Q. It's a hundred thousand people, but it's a small town?

6 A. Everybody knows everybody, yes, sir.

7 Q. And there's this thing called Topics.

8 A. Uh, yes.

9 Q. We don't use Topics a lot in Shelby County. What is
10 Topics?

11 A. Topics was horrible. It's where you could post -- it
12 was online, and you could post anonymously. And you could
13 say whatever you wanted to say, and it was completely
14 anonymous. It didn't matter what was said.

15 Q. Everything as bad as Facebook and every other social
16 media is, this was an anonymous platform where people got
17 away with just slandering each other?

18 A. It was terrible. Yes, sir.

19 Q. And posting things they should not have been posting?

20 A. Correct.

21 Q. Pictures?

22 A. Correct.

23 Q. Health records?

24 A. I don't remember that, but it wouldn't surprise me.

25 Q. Okay. And Jeff kind of went to battle on that too,

EXAMINATION OF KRISTIE GUTGSELL

22

1 didn't he?

2 A. Yes. He posted on Topics as well.

3 Q. You talked about, I think it was Ben Elston or maybe
4 his dad being Jeff's bodyguard. Why would Jeff need a
5 bodyguard?

6 A. It's Ben Elston. His dad did come to the clinic as
7 well.

8 Q. Did he need a bodyguard, or was this just something in
9 Jeff's head that made him more popular and cool?

10 A. Probably the popularity. I didn't go out with him so
11 I don't know what threats he received when he was out. I
12 think maybe he felt more comfortable with a big guy beside
13 him.

14 Q. When we talk about haters, based on what you saw going
15 on and through social media, there was as much hate being
16 given as received. There were haters, were there not?

17 A. Yes, sir, there was.

18 Q. And as he's falling apart, as he's spiralling through
19 this divorce, did he begin to come into the clinic either
20 drinking or drunk?

21 A. That happened the entire time I worked for him.

22 Q. Did it get worse as you worked for him?

23 A. There were periods of time that were worse than
24 others. So things could be okay for a couple of weeks, and
25 then for a couple of weeks be horrible; and then be okay

EXAMINATION OF KRISTIE GUTGSELL

23

1 again for a couple of weeks and then be horrible again.

2 Q. He just kind of cycled in and out?

3 A. He did.

4 Q. Did he cycle in and out of this Doc Rock persona? Was
5 it something that kind of came and went too?

6 A. The whole time that I was around him, once that
7 started up, he kept that persona the whole time.

8 Q. He -- not only did he keep it, he tried to promote it?

9 A. He did, yes, sir.

10 Q. And I think you said even to the point of paying
11 people to come in and film --

12 A. -- a reality show, yes, sir.

13 Q. Was it called a pilot, trying to shop it around for
14 TV?

15 A. I think that's what it was, yes, sir.

16 Q. He thought a lot of himself, didn't he?

17 A. He did.

18 Q. And I think you said in his mind he didn't think he
19 was doing anything wrong?

20 A. Correct.

21 Q. I was looking at the text messaging between you and
22 Mr. Young when you were testifying when he was sitting there
23 with Dr. Alperovich?

24 A. Alperovich.

25 Q. Dr. Al?

EXAMINATION OF KRISTIE GUTGSELL

24

1 A. Dr. Al, yes, that's easier.

2 Q. Did I notice that it started, like, about 5 p.m. in
3 the afternoon and went to about one o'clock in the morning?

4 A. Mine and Jeff's text messages probably did.

5 Q. And that last one was, like, he's just leaving or I'm
6 just getting done or something?

7 A. I didn't look at the time, but if that's what it says,
8 it could have been that late.

9 Q. Because Dr. Al went through each file that was given
10 to him, and I think part of that Jeff told you was page by
11 page?

12 A. Correct. That's what he said, uh-huh.

13 Q. And did you get those files back?

14 A. They were there in the office. They never left the
15 office.

16 Q. Was there anything, during that review, that you're
17 aware of where there was an indication that something --
18 after Jeff talked to him, because in the text message it
19 says: I had to explain to him everything, I had to go
20 through the PMPs and explain my reasoning, explain my medical
21 diagnosis. Any of those files get flagged for not to do that
22 again?

23 A. Not that I'm aware of, no.

24 Q. It wasn't really a gracious way to fire you, was it?

25 A. Do what?

EXAMINATION OF KRISTIE GUTGSELL

25

1 Q. I said that wasn't a really gracious way to fire you.
2 Did he just fire you by text message?

3 A. No. He didn't fire me. I quit.

4 Q. That's right. You quit. And he told the people he
5 fired you.

6 A. Correct.

7 Q. Did he spit Vodka on you?

8 A. He did.

9 Q. And you testified he thought he was more qualified
10 than other doctors?

11 A. Yes.

12 Q. Did he think he was the smartest person in the room?

13 A. Yes.

14 Q. Did he think anyone could tell him how to practice
15 medicine?

16 A. No.

17 Q. Did he think the way he was practicing medicine was
18 the right way for him to practice medicine?

19 A. That's what he believed, yes, sir.

20 Q. Thank you.

21 MR. FERGUSON: That's all I have, Judge.

22 THE COURT: Thank you.

23 Any redirect?

24 MS. PAYERLE: Yes, Your Honor.

25

EXAMINATION OF KRISTIE GUTGSELL

26

1 REDIRECT EXAMINATION

2 BY MS. PAYERLE:

3 Q. I think Mr. Ferguson just asked you if Mr. Young
4 believed that he was infallible?

5 A. Correct. Yes, ma'am.

6 Q. And you said that in his own mind he believed he was?

7 A. Correct. Yes, ma'am.

8 Q. Did -- when the medical board asked Mr. Young to see
9 his files, how he was treating these patients, did he just
10 hand them over as they were in his clinic?

11 A. No, ma'am.

12 Q. What did he do?

13 A. He -- he went through the charts to make sure
14 documentation was done, and if it wasn't, he would do it.
15 And if the overseeing physician hadn't signed the chart, he
16 would stamp the name, the doctor's name.

17 Q. Is it fair to say that Mr. Young understood that he
18 needed to cover up what he was actually doing when the
19 medical board came to investigate?

20 MR. FERGUSON: I'm going to object to the form of
21 the question.

22 THE COURT: Sustain.

23 BY MS. PAYERLE:

24 Q. Did Mr. Young tell you why he was doing that?

25 A. Because there was a correct way to do it and a wrong

EXAMINATION OF HOPE ARMENT

31

1 **HOPE ARMENT,**

2 called as a witness on behalf of the Government, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. PENNEBAKER:

6 Q. Good afternoon. Would you please introduce yourself
7 to the jury.

8 A. My name is Hope Arment.

9 Q. And did you previously go by another name?

10 A. Yes, Hope Rogers.

11 Q. Are you currently incarcerated, Ms. Rogers --
12 Ms. Arment, excuse me?

13 A. I am currently incarcerated. Yes, sir.

14 Q. And just tell the jury briefly why are you
15 incarcerated?

16 A. I had relapsed, and during my relapse, I had stolen
17 some vehicles. Eventually, all of that caught up to me, and
18 I've been incarcerated for the last four years.

19 Q. Are you in recovery today from drug addiction?

20 A. I am.

21 Q. Tell the jury what you were addicted to.

22 A. I was addicted to opioids and meth, and I have been
23 sober for a little bit over four years now.

24 Q. Okay. Do you know Jeff Young?

25 A. I do.

EXAMINATION OF HOPE ARMENT

32

1 Q. Do you see him in court today?

2 A. Yes.

3 Q. Would you identify him?

4 A. He's over there.

5 Q. By an article of his clothing.

6 A. Gray tie, goatee, beard.

7 Q. Got it.

8 MR. PENNEBAKER: If the record could reflect that
9 the witness has identified the defendant.

10 THE COURT: The record will reflect it.

11 BY MR. PENNEBAKER:

12 Q. How do you know Jeff Young?

13 A. He was my doctor.

14 Q. How did you come to be Jeff Young's patient?

15 A. I was going to a different doctor, Thomas McDonald,
16 and he took over the hospital in Lexington. So he was -- his
17 protege was taking over. I didn't like her bedside manner.
18 And my mother and I started looking for a different doctor.
19 My cousin then, Eddie Davis, told us about Jeff, that he was
20 a good doctor. He listened to what you had going on. And
21 that's the kind of person that me and my mom needed, so
22 that's where we went to. He also kind of let us know, you
23 know, you won't have any problems switching over your pain
24 management coming to him.

25 Q. Okay. A couple of follow-up questions about that, did

EXAMINATION OF HOPE ARMENT

33

1 you say your mother?

2 A. Yes, my mother.

3 Q. And did she also have addiction issues?

4 A. She still does, yes, sir. She's been off of them for
5 a while, but she got really bad on pills, yes.

6 Q. Okay. And you also mentioned that your cousin, Eddie,
7 told you that there was a doctor who would listen; is that
8 right?

9 A. Yes.

10 Q. And you said that you and your mom both needed that?

11 A. Yes. Because at my age with the health issues that I
12 had at the time and have now, it's actually hard to find
13 somebody to take you serious in the medical field. They
14 don't want to listen. So whenever, you know -- that's kind
15 of what you want is a doctor that's going to listen to you.

16 Q. And you were hopeful that that would be the case with
17 Mr. Young?

18 A. Yes. And it was.

19 Q. It was --

20 A. Yes.

21 Q. -- throughout your treatment?

22 A. No. At the beginning, it was. More towards the end,
23 we didn't really talk whenever I went in. I just kind of got
24 my medicine and left. But at the beginning, yes, he was very
25 attentive. I have carpal tunnel in both hands. He made sure

EXAMINATION OF HOPE ARMENT

34

1 that that was taken care of. We did injections in it, which
2 I will start back up whenever I get out of incarceration. I
3 haven't been able to do that. But, you know, he was
4 attentive to make sure that I was feeling better physically.
5 And at the time, I thought that my medicine was making me
6 feel better, but in reality, my medicine was actually making
7 me worse.

8 Q. Okay. And, Ms. Arment, I'm going to hand you a record
9 from your patient file. Do you recognize that?

10 A. Yes.

11 Q. Is that an information sheet you filled out when you
12 first went to PREVENTAGENIX?

13 A. Yeah.

14 MR. PENNEBAKER: Your Honor, what has been marked
15 for identification as Government's 419, just one page of it,
16 page 3. Well, actually, it's a front and back page. So
17 pages 3 and 4, which is an information sheet.

18 THE COURT: That was the intake form that you
19 filled out when you initially went to Mr. Young?

20 THE WITNESS: Yes, sir. It's like the one that
21 they give you as soon as you walk in the door.

22 THE COURT: All right. Thanks. We'll receive
23 it. That will be Exhibit 21.

24 MR. PENNEBAKER: Thank you, Your Honor.

25 (Exhibit 21 marked and received.)

EXAMINATION OF HOPE ARMENT

35

1 BY MR. PENNEBAKER:

2 Q. And if we could zoom in on the top third, please.

3 Ms. Arment, do you see the date on this document, the top
4 left-hand corner --

5 A. Yes.

6 Q. -- what does that say?

7 A. November 20, 2014.

8 Q. Is that consistent, in your memory, with when you
9 first went to see Mr. Young?

10 A. Yes, that would have been right after me and my
11 ex-fiance separated, and my tailbone had been broken. So,
12 yeah, that would have been in 2014.

13 Q. Okay. So this is -- when you go in to see him, this
14 is when he is actually listening to what you're saying?

15 A. Uh-huh, yes, sir.

16 Q. And that changed later?

17 Okay.

18 MR. PENNEBAKER: And you can go ahead and put
19 that down.

20 BY MR. PENNEBAKER:

21 Q. Throughout your time as a patient of Jeff Young's,
22 what all -- what kind of medication did he prescribe you?

23 A. I took Ambien, Lortab, 10-milligram, Percocet,
24 10-milligram, plain, 1-milligram Xanax and Seroquel.

25 Q. Okay.

EXAMINATION OF HOPE ARMENT

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1 A. I can't think of the rest of them, but it would have
2 been, like, a seasonal thing, like, if I had sinuses or
3 something like that. But it wasn't very often that I had to
4 have that stuff.

5 Q. Did you ever get cough syrup with codeine?

6 A. Yeah, that would have been, like, a seasonal thing.
7 When my sinuses act up, I have a really bad bout with my
8 lungs and my chest. So, yes.

9 Q. Okay. Are you taking any of those medications today?

10 A. No, I'm not.

11 Q. Are you planning on trying to get back on them when
12 you get out?

13 A. No. I never will.

14 Q. And why is that?

15 A. Because I lost everything with this relapse, and -- I
16 mean, kids, home, freedom. At the end of the day, nothing is
17 worth that. And I can take care of my own body by eating
18 right and doing what I need to do, like vitamins and stuff.
19 I'm sorry. I'm so nervous.

20 Q. That's okay. You're doing fine. It's totally fine.
21 Take your time. And if you need me to clarify any questions
22 or ask something again, I can do that.

23 A. Okay. Sorry.

24 Q. Don't forget to breathe.

25 A. I'm trying to.

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1 Q. Yeah. You're doing good.

2 Okay. So does your family have a history of
3 addiction?

4 A. Yes. My grandmother and grandfather were both
5 alcoholics, my mother struggled with addiction my whole life,
6 and my brother and sister are both addicts.

7 Q. And did you tell Jeff Young about that history?

8 A. I can't recall, honestly, whether I talked about that
9 or not.

10 Q. Were you and Jeff Young Facebook friends?

11 A. We were Facebook friends. And on my Facebook, you
12 could see before the life that I led, and then you could see
13 clearly, I guess, when mine kind of took a turn by my posts
14 and stuff. But not everybody, I guess, pays really close
15 attention to that kind of stuff. So, I mean, we were
16 Facebook friends, though.

17 Q. And at the time that you started seeing Jeff Young,
18 did you identify as sober when you started to see him?

19 A. I came to him from another doctor, so I was already
20 getting prescriptions. But, I mean, I wasn't using, per se.
21 So, no, I don't think I'd say sober, but you would have been
22 able to look at me and tell I definitely was not on hard
23 drugs.

24 Q. So you said that the doctor treating you before Jeff
25 Young was named McDonald?

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1 A. Yes, Thomas McDonald. I actually went to pain
2 management through him and -- but it was different.

3 Q. How so?

4 A. Every month you got a pill count, you got random drug
5 tests. Like, he knew about my drug addiction. Like, he had
6 asked those questions because he kind of knew about my family
7 history, I guess. But he asked at the beginning before I
8 started the pain management: Do you have any problems with
9 addiction or have had in the past. I told him yes. So he
10 would actually, like, call me in for random drug tests and
11 things of that nature to keep me -- I guess, keep me
12 accountable.

13 Q. You had some accountability with Dr. McDonald?

14 A. Yeah.

15 Q. Did you have any kind of accountability like that with
16 Jeff Young?

17 A. He did do random drug tests when we would go into the
18 office. It wasn't like Dr. McDonald. Starting out it wasn't
19 every month, but then eventually, he did start doing it every
20 month.

21 Q. And I'm glad you mentioned the drug tests because do
22 you remember how you did on those?

23 A. Well, typically, I passed them because, normally, I
24 was not taking the drug tests correctly. Either I was having
25 someone to pee for me and carrying it in, or I was adding the

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1 medicine in the bathroom. So --

2 Q. You add the medicine in the bathroom, would you tell
3 the jury a little bit more about what you --

4 A. Crush up a piece of the pill and put it in the
5 medicine, which later when they changed their drug tests, it
6 did show that my medicine was not metabolized in my system.

7 Q. So it came back as an aberrant drug test, a failed
8 drug test?

9 A. Yes. That would have been, like, I had my daughter in
10 [REDACTED]. That would have been probably late 2015. I had
11 her in [REDACTED]. I'm sorry. I don't know where I got
12 [REDACTED]. I had her in [REDACTED]. And it would have been
13 probably, like, late that year that that happened.

14 Q. And I want to get back to your daughter in a minute.
15 Just one follow-up question about that. When that aberrant
16 drug test happened, you're saying that the drug test didn't
17 show the metabolites, which you got flagged for, by the
18 company that was doing the test?

19 A. Right. And Daniel, the nurse, called me into the
20 room, told me that they could no longer see me, and I flipped
21 and was, like, no, you get Jeff in here. This was complete
22 crap. And Jeff came in and looked at it and just told him to
23 put me in a room. And then I didn't hear anything else about
24 those drug tests.

25 Q. Okay. So -- and you got to keep seeing Jeff Young

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1 even after that --

2 A. Yeah. Because that would have been the end of 2015,
3 and I was there up until he was served. So that was the
4 following year.

5 Q. Okay. One last question about Dr. McDonald versus
6 Jeff Young: With Dr. McDonald, were you taking the
7 medication that you were being prescribed as it was supposed
8 to be taken according to the prescription?

9 A. I was. I was taking my medicine like it was supposed
10 to be because I knew that he was going to count them; and so,
11 therefore, I didn't get carried away with it.

12 Whereas, there at the end, I was literally having to
13 roll over and grab three pills off of my night stand to get
14 out of bed every day.

15 Q. And at the end, you mean when you were being treated
16 by Mr. Young?

17 A. Yes, sir.

18 Q. Okay. I want to shift gears a little bit. You
19 mentioned your daughter. What is her name?

20 A. A.A.

21 Q. Okay. A.A. so when did you find out that you were
22 pregnant with A.?

23 A. I found out I was pregnant with A., it would have been
24 January or February of 2015 because I did not find out I was
25 pregnant with her until after my first trimester.

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1 Q. Okay. Now, by this time, you're under Jeff Young's
2 care?

3 A. I am.

4 Q. Had you become active in your addiction again by this
5 time?

6 A. By that time, I was -- my dosage had went up on my
7 pills. My amount had went up on my pills, and I had a little
8 bit more freedom with them. So, yes, I would definitely say
9 that my addiction was active at that time.

10 Q. Okay. And what outward signs of active addiction were
11 you exhibiting at that time?

12 A. Well, I mean, I pretty much didn't want to function
13 during the day without having my medicine, and I would just
14 blame it on the aches and pains of the ailments that I have.
15 But hindsight is 20/20. That was actually me -- like, there
16 was times at the end of the month that I was physically going
17 through withdrawals, and it was almost every month that I
18 dealt with that.

19 Q. Okay. And I'm going to ask you a few more questions,
20 but before I do that, would you take a look at these? Are
21 those prescriptions that the defendant wrote you over the
22 course of your treatment? And take your time.

23 A. Yes, these are the first ones. These are the first
24 ones -- or the second ones, because the first ones would have
25 been in November. Yeah. Because he hasn't gone up on them

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1 yet.

2 MR. PENNEBAKER: So this is going to be a
3 compilation exhibit from what's been marked as Government's
4 419, a couple of pages out of Government's 419 that I'll read
5 off as I get to them, Your Honor. And then there are
6 prescriptions in what's been marked Government's 500, the 500
7 series. And so this is a compilation of those prescriptions
8 to Ms. Arment in chronological order, probably about 20, 25
9 pages. And I'd offer this in evidence at this time, Judge.

10 THE WITNESS: Okay. I was fixing to say it
11 doesn't look right because the milligrams are wrong, but then
12 the milligrams change right here.

13 THE COURT: Can you identify those as scripts
14 that were given to you?

15 THE WITNESS: Yes, sir.

16 THE COURT: Let's go ahead and receive it. It
17 will be Exhibit No. 22. How many pages was it?

18 MR. PENNEBAKER: I'm estimating here, Judge. I'd
19 say it's about 20, maybe 25.

20 THE COURT: Okay.

21 (Exhibit 22 marked and received.)

22 BY MR. PENNEBAKER:

23 Q. Ms. Arment, when you found out that you were pregnant
24 with A., did you go see an obstetrician?

25 A. I did. I went and saw Dr. Armie Walker in Jackson,

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1 Tennessee, who also referred me to Dr. Hoeldke, who is a
2 high-risk doctor. And I continued going to Jeff for my pain
3 management. So all three of them were actually over me
4 during my time -- during my pregnancy.

5 Q. Did you tell Jeff Young that you were pregnant with
6 A.?

7 A. Yes.

8 Q. How soon after you found out?

9 A. I told Jeff the first time that I went whenever I
10 found out, which would have been, like, Februaryish. I'm not
11 real sure. 2015.

12 Q. Okay. And did Jeff Young ever tell you about the
13 risks of being on opioids while you were pregnant?

14 A. I don't recall having a conversation about that. I,
15 actually, sitting here before you, don't know the risks of
16 what it does to a fetus to be addicted to opioids or Xanax.

17 Q. Okay.

18 A. I still don't know what those risks are.

19 Q. And that was going to be my next question: Did Jeff
20 Young tell you what the risks to the fetus of taking Xanax
21 were?

22 A. No. But I'm not a hundred percent positive, but I'm
23 really close to it that A. didn't have Xanax in her system
24 when she was born because I wasn't taking my Xanax.

25 Q. Okay. And have you ever had a conversation with

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1 either of the other providers at any time about what the
2 risks were even if you don't remember what they said now?

3 A. I don't recall. I know Dr. Hoeldke was telling me
4 that he wanted me to kind of branch out and look into going
5 to see, like, my GI doctor and stuff. And in my mind, I was,
6 like, that's not going to help my situation because I'm
7 pregnant. You can't put me to sleep to do a colonoscopy, and
8 I just talked myself out of that one.

9 Q. Okay. And so you went to Dr. Hoeldke with stomach
10 issues while you were pregnant; is that the deal?

11 A. Yes. I was sick. I was really sick. I couldn't hold
12 anything down, and I was there for my monthly checkup, and I
13 was throwing up. I had diarrhea. I was super sick, and I
14 couldn't understand why. And so Dr. Hoeldke told me I was
15 going to have to go to the emergency room. And I was, like,
16 I'm not going down there to sit for hours in the emergency
17 room. I have an appointment at my doctor's office after
18 this, so I went to the doctor, and I told Jeff what was going
19 on. And he gave me a shot of Phenergan in the office and a
20 little -- a script of Phenergan to take home with me to keep
21 me from throwing up. And then I got my regular prescription
22 for my medicines.

23 Q. So looking back on it now, like you said, 20/20
24 hindsight, do you think you had something that was wrong with
25 your digestive tract, or was it something else?

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1 A. No. I think I was having withdrawals because I had
2 been out of my medicine for about a week. And, like I said
3 just a minute ago, unfortunately, there for a long while it
4 was about every month that I was feeling like that. And I
5 really never had been through withdrawals, so I didn't really
6 know what they were.

7 Q. Okay. So if we could go to 509.0005, please. And
8 this is -- that's what it says at the bottom of the page.
9 This is Government's 22. This is the one we just entered.
10 So this is Government's 22. I'm not sure which page of 22
11 for the record, but it does say 509.0005 at the bottom.

12 So this is a prescription that you received from the
13 defendant?

14 A. Yes, sir.

15 THE COURT: Could you blow that up a little,
16 please? Much better. Thank you.

17 BY MR. PENNEBAKER:

18 Q. So this is on March 5, 2015. So this is about a month
19 after you found out -- or after you found out, slash, told
20 Jeff Young you were pregnant?

21 A. Yes, sir.

22 Q. Now, is that Percocet, number 90, is that supposed to
23 be a 30-day supply?

24 A. That is a 30-day supply, yeah.

25 Q. Okay. So if we could now go to 500 -- same exhibit,

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1 at the bottom of the page, it says 500.0009. So this is --
2 that last one we saw was March 5 of 2015, correct?

3 A. Yes.

4 Q. This is March 25 of 2015, correct?

5 A. It is.

6 Q. So that's 20 days later?

7 A. Right.

8 Q. And you're getting a prescription for a different
9 opioid medication. This time it's hydrocodone, correct?

10 A. Yes, sir.

11 Q. And that's the number 90?

12 A. Yes, sir. It's another 30-day supply.

13 Q. Okay. And is this the consult where Dr. Hoeldke had
14 suggested that you go either to the hospital, see the GI
15 specialist, and you were going through withdrawal?

16 A. I have no idea. No, I don't know --

17 Q. It has been a bit --

18 A. -- it had to have been around in there because that
19 happened pretty quick. Like -- I was, like, six months --
20 five or six months pregnant whenever that happened, that
21 episode. But -- yeah.

22 Q. Okay. I know it's been a long time.

23 A. It has been.

24 Q. But this is before that 30-day period you're getting
25 another prescription for a different opioid?

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1 A. Yes, sir.

2 Q. Is it fair to say that when you get this prescription
3 or March 25, 2015, you needed the prescription to avoid
4 withdrawals?

5 A. I would say so, but I don't know if it was filled at
6 that time.

7 Q. Okay.

8 A. I can't speak on that exactly because I'm not sure.
9 Sometimes I would get my prescription a little early, but I
10 wouldn't fill it until it was time to get it filled.

11 Q. Okay.

12 A. But I can't tell by this whether they filled it or
13 not.

14 Q. Okay. Looking back, did you need this prescription at
15 the time other than to avoid withdrawals?

16 A. I mean, I had pregnant woman aches and pains, the
17 normal stuff, stuff that I should have been enjoying and
18 remembering and holding on to.

19 Q. So prescribing -- or the maintenance on these pain
20 meds for that kind of stuff deprived you of that part of your
21 pregnancy?

22 A. Yeah.

23 MR. PENNEBAKER: Ms. Silverberg, if we could go
24 to 503.001 for the record, it's the same Exhibit 22. That's
25 marked at the bottom. Maybe it's 0001 -- 503.0001. That's

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1 what it says on the bottom.

2 BY MR. PENNEBAKER:

3 Q. All right. Ms. Arment, do you see the prescription up
4 there at the top?

5 A. Yes, sir.

6 Q. And it's April 23, 2015?

7 A. Uh-huh, yes, sir.

8 Q. Lortab, 120 count. So the -- looks like 7.5 over 325.
9 Do you know what that means?

10 A. 7.5-milligram hydrocodone and 325 milligrams of
11 TYLENOL\acetaminophen.

12 Q. So is it fair to say that's the same strength of
13 hydrocodone as the last prescription, with upping the number
14 of them to 120?

15 A. Yeah. It went from three times a day to four times a
16 day.

17 Q. Okay. Do you recognize the signature at the bottom of
18 that prescription?

19 A. Yes, sir.

20 Q. And whose is that?

21 A. Jeff Young's.

22 Q. So at this time, did you need that medication for
23 anything other than to avoid withdrawal?

24 A. Like I said, normal aches and pains of being a
25 pregnant woman. In my mind -- I don't know. Like, I know

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1 now that the brain, when you are going through withdrawals,
2 it kind of fires off sensory to make you feel like you're in
3 a lot more pain than what you're actually in. And I feel
4 like that's what I was going through.

5 Q. Do you think that if a care provider you had been
6 seeing had said, I'll wean you off of this, you would have
7 said: No, I'm not going to do that?

8 A. I would have probably tried to fight it because I felt
9 like I had to have it. But, I mean, if it was someone that I
10 listened to and someone that I considered like a friend,
11 then, yeah, I probably would have.

12 Q. Someone like Jeff Young?

13 A. Yeah.

14 Q. But that never happened, did it?

15 A. No. I had a run-in -- he had gotten really busy. I
16 got tired of waiting in the lobby so long. And I had been
17 going there for a long time so it -- I went to a different
18 doctor. And when I had the accident where I got the DUI with
19 my daughter in the car, she actually stopped seeing me and
20 offered me rehab on the spot. But, I mean, I didn't really
21 know her like that, and I had just started going to her so I
22 didn't have a relationship established where I felt
23 comfortable with her saying that to me. So I actually left
24 and went back to Jeff.

25 Q. And that's later. This is after A. was born, correct?

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1 A. Yes.

2 Q. Okay. So if we can, please -- well, actually -- we
3 can switch on back, and that's 503.0001. I just want to go
4 back there for one second. If we can go to the bottom
5 prescription, please.

6 A. This is the -- this is the one where I went to Jeff,
7 and I was sick that day. It was not in 3/25. It was 4/23.

8 Q. Got you. So 4/23 you would have been sick this day?

9 A. Yes.

10 Q. And so you get Phenergan in that bottom prescription.
11 We just talked about the 120 Lortab, which is hydrocodone.
12 Up at the top, right underneath RX, it says Xanax,
13 1 milligram?

14 A. Yes, sir.

15 MR. PENNEBAKER: Okay. If we can, let's go to
16 Government's 22. At the bottom it's marked 504.0002.

17 BY MR. PENNEBAKER:

18 Q. What's the date on that prescription?

19 A. 5/20.

20 Q. So that's May 20th of 2015, Lortab 7.5/325, number
21 120, right?

22 A. Yes, sir.

23 Q. And at this time, you were still pregnant with A.?

24 A. Yes, sir.

25 Q. And the defendant knows this?

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1 MR. PENNEBAKER: Underneath, if we can go to that
2 second prescription, please.

3 BY MR. PENNEBAKER:

4 Q. We've got the same date, a prescription for Xanax,
5 another 90 of those, correct?

6 A. Yes, sir.

7 Q. Okay.

8 MR. PENNEBAKER: And then if we can go to
9 505.0001, still Government's 22.

10 BY MR. PENNEBAKER:

11 Q. Is that a prescription for Lortab 120 again, June 19,
12 2015?

13 A. Yes, sir.

14 Q. And you're still pregnant at this time?

15 A. Yes, sir.

16 MR. PENNEBAKER: If we can, please, go to
17 Government's 506.0001, and this is still Exhibit 22.

18 THE WITNESS: Yes.

19 BY MR. PENNEBAKER:

20 Q. Now this is a -- it looks like a different
21 handwriting?

22 A. It is.

23 Q. What -- can you -- let the jury know what's going on
24 in this prescription?

25 A. Okay. That was the lady that worked for him downtown,

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1 Petway or whatever her name is. I went to her because Jeff
2 was busy, and I couldn't get in. So I went downtown, and she
3 did not want to write me my medicine, and we had it out in
4 the office. And she just told me she wasn't comfortable
5 writing me medicine, and I told her to call Jeff because this
6 prescription was actually supposed to be for when I got ready
7 to have my baby. And I needed the medicine because I was
8 having surgery. I was actually having a surgical procedure
9 done.

10 So she called -- I guess she called Jeff, and she
11 wrote it, but there was something wrong with it. This looks
12 right, but there's something wrong with it. Something got
13 changed. I can't remember if it was the quantity or what
14 because I had sent Jeff a message on Messenger and told him
15 that I needed to come and see him because she had messed
16 something up on my prescription.

17 Q. Okay. And for all of those prescriptions that we just
18 saw, that we haven't already talked about, same question:
19 Are those prescriptions that you needed for anything other
20 than to avoid withdrawal?

21 A. I mean, I function every day. I'm actually a welder
22 for Kubota, and I use my hands every day. And I don't take
23 any narcotic pain medicine. I don't take hardly even any
24 ibuprofen, actually.

25 Q. And has anything about your condition changed? Like,

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1 were you worse off back then? Did you have some crippling
2 ailment that you don't have now or anything like that?

3 A. No. I actually am worse now than I was then. It's
4 harder to use my hands now because I'm not getting the
5 treatment that I need, but I get up every morning at four
6 o'clock in the morning and go and do a 12-hour shift, and I
7 function as a normal, functioning human being.

8 Q. Okay. I'm going to hand you two pages of text
9 messages between you and Jeff Young or Facebook messages
10 between you and Jeff Young. I just want to make sure you
11 recognize it.

12 A. Yes, I recognize them.

13 Q. Okay.

14 MR. PENNEBAKER: Your Honor, we offer these two
15 pages as Government's -- well as Exhibit 23.

16 THE COURT: Okay. We'll go ahead and receive it
17 as Exhibit 23.

18 (Exhibit 23 marked and received.)

19 BY MR. PENNEBAKER:

20 Q. And if we could zoom in on that bottom one, actually.
21 So this is the -- this is in [REDACTED] 2015, and this is
22 before -- it was about a month before you had A., correct?

23 A. Yes. It was exactly almost a month before I had A.

24 Q. Okay. And you say to the defendant: Can this OB call
25 you. I'm being discharged from the hospital, and she needs

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1 your permission to write any of the Tramadol for the
2 breakthrough pain. I have nothing to fall back on at home
3 and don't see you until the 17th. I asked her to contact you
4 about it because of my contract.

5 What did you mean by that?

6 A. Because at that point, there had been a contract given
7 to us saying that we would adhere to the pain management
8 contract. We would not have anybody writing us prescriptions
9 besides him. We would not fail our drug tests. That sort of
10 thing.

11 Q. Was one of the terms of the pain contract that you
12 would only use the medications as prescribed?

13 A. Yes, that was one of them.

14 MR. PENNEBAKER: So if we could go back,
15 Ms. Silverberg, to 505.0001.

16 BY MR. PENNEBAKER:

17 Q. That message we were just looking at, it says that was
18 on July 5?

19 A. Uh-huh.

20 Q. And this prescription was written on June 19, correct?

21 A. Right.

22 Q. So you have 120 Lortab that are -- that have been
23 written for you on this prescription, and is it fair to say
24 that you were out of this prescription by the time you went
25 into the hospital because you had nothing to fall back on?

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1 A. Yes, sir. But I didn't take all of those pills.

2 Q. Okay. Do you want to tell the jury what you mean by
3 that?

4 A. I don't want to get in trouble. I was selling some of
5 my pills especially when I was pregnant because I wasn't
6 taking all of them, especially the Xanaxes. But the Lortabs,
7 I would keep quite a few of those to sustain me. However, I
8 would sell a lot of them, and then by the end of the month, I
9 was having to buy off the street to sustain me to get me by
10 until I got my prescription again.

11 Q. Or you would go through withdrawal?

12 A. Or I would go through withdrawal.

13 MR. PENNEBAKER: Ms. Silverberg, can we go back
14 to the exhibit we were just looking at, 23, and the top of
15 the second page, please.

16 BY MR. PENNEBAKER:

17 Q. And you say here, and this is [REDACTED], 2015, a few
18 days before you have A., correct?

19 A. Yes.

20 Q. Don't have any other way to ask you this, but when I
21 asked you if you would come to the hospital when I have the
22 baby, not just to see us but also to take care of making sure
23 I have my meds when I leave, is that a possibility, or do I
24 need to move my appointment up to before the 14th to make
25 sure when I have them -- or I can have them when I come home.

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1 And then you say: Trying to get my birth plan in
2 action. I do want you to come see her when she's born.
3 You've taken awesome care of me through this whole process,
4 and I consider you not only my doctor but also my -- and it
5 cuts off but that looks like that's --

6 A. -- friend.

7 Q. -- friend?

8 A. It's abbreviation for friend.

9 Q. Okay. So you're getting ready to have this child, and
10 you're contacting Jeff Young. What are you worried about?

11 A. Not having my medicine.

12 Q. Do you know at this point how much pain you're going
13 to be in, or is this just you anticipating -- you just don't
14 want to be stuck in the hospital kicking --

15 A. Yeah. I knew I was having the procedure. I knew what
16 a similar procedure felt like, and it was not comfortable,
17 and I was not willing to be in that much pain.

18 Q. Okay.

19 MR. PENNEBAKER: And you can take that down,
20 Ms. Silverberg. Thank you.

21 BY MR. PENNEBAKER:

22 Q. I think you mentioned that you were experiencing
23 withdrawals even with the medication that Jeff Young was
24 prescribing you?

25 A. Yes.

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1 Q. Can you tell the jury what it felt like to be pregnant
2 and having withdrawals?

3 A. It was awful. I was a high-risk pregnancy, and, like,
4 my tailbone had recently been broken. And every time she
5 shifted, it would kind of make it crack a little bit more.
6 The withdrawals made the pain that I was going through a lot
7 more unbearable. I was sick, throwing up sick. As you know,
8 being pregnant, you're already sick, but I was projectile
9 puking, like, hardly able to get to the toilet in time before
10 I would -- yeah. I couldn't work. It was bad.

11 Q. How much did you weigh in your pregnancy? Do you
12 remember?

13 A. I don't, but I know it wasn't a lot. I want to say I
14 weighed about what I weigh now when I had her.

15 Q. Okay. When was A. born?

16 A. She was born on [REDACTED].

17 Q. 2015?

18 A. Uh-huh.

19 Q. Was she born with opioids in her system?

20 A. She was.

21 Q. Did she have to spend time in the NICU?

22 A. Yes.

23 Q. Did you ever talk to Jeff Young about that?

24 A. Sure. I told him after I got out that she was in the
25 NICU for two weeks. She wasn't in there the whole time for

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1 opioids, though. She was in there because she had MRSA that
2 she contracted that because she had opioids in her system and
3 had to be put in the NICU. She got it from the NICU.

4 Q. How is she doing today?

5 A. She's wonderful.

6 Q. Okay. So Jeff never tried to -- Jeff Young never
7 tried to warn you -- wean you off before A. was born?

8 A. No, he didn't, and neither did my OB or Hoeldke.

9 Q. Who was prescribing those?

10 A. Jeff Young.

11 Q. Okay. And do you know whether either of those other
12 providers talked to him or tried to --

13 A. You know, I don't know because Dr. Walker really has
14 been involved in my family. She -- like, she has worked on
15 my mom, my sister. And I would think that if anybody would
16 have made contact, it would have been them two making
17 contact. But, honestly, I don't think any of my doctors made
18 contact with each other.

19 Q. Okay. But you don't know one way or the other?

20 A. I don't.

21 Q. Okay.

22 A. I can't say for sure.

23 Q. I think you mentioned earlier that when you were
24 failing drug tests that -- you know, crushing up pills to try
25 to have that in your system, that that was after A. was born?

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1 A. No. That was while I was pregnant with A.

2 Q. And after?

3 A. And after.

4 Q. Okay.

5 A. The failed drug tests that were shown to me were from
6 April of 2015, and that would have been during the time that
7 I was pregnant with A. I think it was April, May, June and
8 July, as a matter of fact. It was four months of them.

9 Q. Okay.

10 A. And -- yeah.

11 Q. And when you say that was shown, Jeff Young never
12 showed you those drug tests?

13 A. No. There were other people that got fired from
14 getting -- I mean, it was going on all over Tennessee. But,
15 like, we would go in and wait in the waiting room, and then
16 Daniel would call you back, like, you were getting triaged.
17 And he would tell you that this is what happened and then
18 have you sign some paperwork.

19 Q. Got it. Got it. And you mentioned that you
20 eventually quit seeing the defendant, and I think you said
21 that it was getting too busy in the waiting room?

22 A. Yeah, it was. Like, me and my mom, we had been going
23 to Jeff for a long time. We referred a lot of people to Jeff
24 over the course of the time that we had been going there. We
25 kind of built a rapport with him. He felt like a friend.

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1 But there towards the end, it was like we were just a number
2 in a waiting room. And so it got way too busy. There was
3 too much.

4 Q. What did it look like in the waiting room? What was
5 it like in there?

6 A. Like, I would be there sitting for hours, and there
7 was this new VIP special going on where people could pay cash
8 and come in through the side door and be seen immediately and
9 then leave, and then leave all of us that have been sitting
10 in the waiting room still sitting there for hours. And it
11 would be elbow to elbow in the waiting room.

12 Q. Okay. Did you ever tell Jeff Young that you were
13 abusing drugs?

14 A. No.

15 Q. Did you signal to him that you were in other ways?

16 A. No. But if you look at my Facebook page, you, as a
17 person from the outside, would be able to see the
18 deterioration in me over -- like, from the time I had A.
19 until my children were taken away, I withered away to
20 nothing.

21 Q. And it was while you were under the care of Jeff
22 Young?

23 A. Right. And that was before I relapsed on meth. This
24 was completely opioid based. And if I didn't have my
25 medicine, I freaked out.

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1 Q. I actually want to ask you about it because you said
2 "relapsed on meth." Were you taking meth when you were
3 seeing Jeff Young as a patient?

4 A. No. No. I wouldn't because whenever I started seeing
5 Jeff, he explained, he was, like, you're getting drug tests.
6 Weed is not that big of a deal, but don't have nothing else
7 in your system. And you better have your meds in your
8 system, but don't have nothing else in your system. And I
9 never did. Like, I legit didn't.

10 And then I had left his practice and was going to the
11 other doctor, and I don't really know. Just one day I was
12 tired. I didn't have any pain pills, and I didn't go see her
13 for a couple of weeks so I got high. And I was off to the
14 races. I got a DUI with my daughter in the back seat and
15 lost my children. Meredith stopped giving me my medicine. I
16 went to Quinco to try to get my medicine. They wouldn't give
17 me my medicine.

18 So I went to Jeff, and he actually wrote my medicine,
19 but then I couldn't get it filled. So I busted in his office
20 one night after work because I was, like, oh, my God, my
21 medicine. Looking back it's so petty the way that I was, but
22 I was really that strung out on them that I really needed
23 them. And I didn't want to keep using meth. So I felt like
24 if I had the other one, then I wouldn't need that one. And
25 it's just been a disaster.

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1 Q. So when he wrote you that prescription when you -- so
2 just to make sure I got those events right. So you are
3 seeing Jeff Young. You leave that practice. You go -- you
4 start to see Meredith. Meredith Weeks is the name of the
5 other practitioner. And then after you get a DUI, did you
6 tell Weeks about this, or did she find out somehow?

7 A. Weeks is from my hometown. She found out about it,
8 but not just that. My posts on Facebook were livid. I was
9 literally having a nervous breakdown and everybody around me
10 knew that I was losing it. Like, I was losing it. I sat in
11 the middle of my living room floor with my kids' stuff around
12 me for two weeks. I didn't eat. I didn't sleep, nothing.
13 Complete nervous breakdown.

14 Q. When you went back to Jeff after that and he wrote you
15 the prescription --

16 MR. PENNEBAKER: If we can call up Government's
17 419. Well, this is going to be Exhibit 22, but it's page
18 419.0125.

19 BY MR. PENNEBAKER:

20 Q. Would that have been the date?

21 A. Give me just a second. I lost my kids on 10/18. This
22 prescription, I feel like, would have been November.
23 Maybe -- maybe December. But I'm thinking --

24 Q. So you come into his office after hours freaking out,
25 and then after that happens, he still writes you -- looks

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1 like Depakote and this one has Xanax -- and if we can go to
2 the --

3 A. No, sir.

4 Q. Oh.

5 A. I came into his office that day, and he had written
6 one of them that day. And I couldn't get it filled because
7 another provider the month before had written it for four
8 times a day, but it was actually not enough to even get me
9 through two weeks. And so he wrote the other prescription so
10 that maybe the insurance would approve it because it wouldn't
11 approve the other one. And he told me that I would not be
12 able to get my oxycodone filled until the 30 days was up.
13 Thirty days didn't happen because I'm pretty sure, like, a
14 day or two after that is when they came in on him.

15 Q. That's when there was a search warrant at
16 PREVENTAGENIX, and it closed down?

17 A. Yes. And then no pharmacy would touch that
18 prescription.

19 Q. Okay. So you mentioned that there were a lot of
20 consequences from the spiral that happened after you started
21 seeing Jeff Young, correct?

22 A. Yes, sir.

23 Q. And what happened with your kids?

24 A. They were removed from my custody. One of them got
25 adopted. She's 21 now. The other two live with their dads.

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1 Q. Okay. And you've been incarcerated. Are you close to
2 getting out?

3 A. I am. Whenever I get back to Georgia, I'll be within
4 ten days of freedom.

5 Q. Are you planning to do things differently when you get
6 out?

7 A. I am. I completed welding school at Northwest Georgia
8 Tech. So I'm a certified welder across the United States.
9 I'm going to continue that career. I'm going to get my kids
10 back as soon as I get out. I'm going to get a hair and nail
11 follicle test because they can test me from root to end. I'm
12 clean. I have been clean for over four years. I'm -- I'm
13 ready to live my life.

14 Q. Were you optimistic about the future as the
15 defendant's patient?

16 A. I mean, I didn't really know what the next day held.

17 Q. Are you optimistic --

18 A. Do you know what I mean?

19 Q. Yeah. But I wanted to just contrast, are you
20 optimistic about the future today?

21 A. Yeah, nothing can hold me back. I have certifications
22 and everything from forklifting to welding. I've done
23 everything that the state will offer an inmate, and I'm just
24 ready to get out there. I'm married and ready to be a wife
25 and mom and do normal stuff.

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1 Q. Awesome.

2 MR. PENNEBAKER: Pass the witness.

3 THE COURT: Thank you.

4 Mr. Ferguson, cross?

5 MR. FERGUSON: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. FERGUSON:

8 Q. Good afternoon, Ms. Arment.

9 A. Arment.

10 Q. Arment?

11 A. Yes, sir.

12 Q. I'll try to get that correct. I promise you I will
13 mess it up, and it's not a slight to you. It's reflective of
14 me.

15 A. You are not the only one, I assure you.

16 Q. Thank you. I'll try real hard.

17 One of the things I didn't understand -- two things.

18 When you came to see Jeff Young, what was your medical
19 conditions? What were the problems?

20 A. Okay. I have Crohn's disease. I have ulcerative
21 colitis. I have a fractured tailbone that has never repaired
22 itself properly. My lower back is messed up from spinal taps
23 from having children, and I have carpal tunnel in both hands.

24 Q. Is that fair to say all of that is fairly painful?

25 A. It is.

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1 Q. And is that why you were being seen by a pain
2 specialist before you came to Mr. Young?

3 A. Yes, sir. My ex-fiance had actually just broken my
4 tailbone when I started going to see Dr. Thomas McDonald, and
5 that's why I started was because I needed to continue care
6 besides an emergency room doctor.

7 Q. Okay. Was it the broken tailbone that started you
8 into the pain management side of the medicine?

9 A. It was that and my Crohn's.

10 Q. Okay. The tailbone injury, was -- I'm not trying to
11 pry, but was that like a fight, traumatic injury or something
12 of that nature?

13 A. Yes, sir, he picked me up and threw me.

14 Q. Okay. Sorry about that.

15 A. Oh, it's okay.

16 Q. When you left -- why did you leave the pain management
17 specialist?

18 A. Dr. McDonald took over the hospital in Lexington, and
19 his coworker was taking over, and I didn't really like her.
20 She wasn't very nice.

21 Q. Did you know her? I mean, had you been around her
22 before or would you have just seen her once?

23 A. I had been around her for about six or eight months
24 working with him when he wasn't there, and I didn't like her
25 demeanor or bedside manner. She was kind of rude.

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1 Q. How long did you see this doctor, pain specialist?

2 A. Dr. McDonald, I saw him for, like, two years.

3 Q. And had you seen anyone before him for your pain
4 management?

5 A. No, sir.

6 Q. Had you been prescribed any other medication for pain
7 before him?

8 A. Just as needed.

9 Q. What do you mean by that?

10 A. Like if I had went to the hospital for an injury or
11 something to that effect, but, no.

12 Q. Not for managing your chronic pain?

13 A. Correct.

14 Q. Okay. So no doctor before the pain management had you
15 on any kind of long-term opioid or pain medication
16 management?

17 A. Right. And, also, as I said before, I was -- I had
18 relapsed. But before I relapsed, I was sober for 12 years.
19 So I was really careful as to what, you know, what I took.

20 Q. All right. You keep using these numbers of years --

21 A. Yeah.

22 Q. -- and I should know the answer to this because it's
23 real easy for me to look up, and I'm so sorry two questions
24 to never ask a woman: How old are you?

25 A. I just turned 41 two weeks ago.

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1 Q. Okay. I didn't know that. I would have not have
2 guessed that. I was trying to figure out where 12 years went
3 to.

4 A. Yeah.

5 Q. So somewhere in your past you had previously been
6 addicted to drugs?

7 A. I had been, yes, sir.

8 Q. At what age and what drug?

9 A. I started using when I was 13, and I got sober when I
10 was 25 from meth and opiates.

11 Q. Okay. So you had had a bout of addiction previously?

12 A. I had.

13 Q. Okay. Is that why when you were needing to be treated
14 for pain, you went to a pain management specialist?

15 A. It was getting to the point where if you weren't in
16 the pain management specialist, you weren't being seen about
17 pain regardless of how severe or nonsevere that it was. So I
18 had to get in with a doctor that dealt with pain management,
19 yes.

20 Q. During this time period, it had become very difficult
21 for you to find a physician or a medical provider that would
22 touch pain medication?

23 A. Correct.

24 Q. For fear of getting in trouble?

25 A. Right.

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1 Q. You found this doctor. He made -- he spoke to you
2 about your illness?

3 A. Yeah. Dr. -- well, Dr. Thomas McDonald is -- I call
4 him Dr. House. He is that kind of doctor. He -- I didn't
5 realize that I had shingles on my face. And all my life
6 everybody has been telling me it was different, and one look
7 at it, and he knew what it was. So he did talk to me about
8 my different ailments, and we worked on some natural stuff as
9 well as pain medicine.

10 Q. Did Dr. House do any testing to see if you had
11 Crohn's?

12 A. I actually went to Dr. Salder, who is my GI
13 specialist.

14 Q. You came to Dr. House and said you'd previously been
15 diagnosed?

16 A. Dr. McDonald, yes, sir.

17 Q. I'm sorry. See, you said House, and I'm watching that
18 series, and I'm not sure how you like him because I'm
19 surprised. It's been a while since I've seen it.

20 Dr. McDonald, you came in and said, hey, I've been
21 diagnosed with Crohn's?

22 A. Correct.

23 Q. He didn't do the testing to see if you had Crohn's?

24 A. No. He sent me because I was having problems. And
25 everybody -- like, I had a colonoscopy done here at the med

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1 years ago, and they perforated my colon. We never found out
2 anything. So they diagnosed with me irritable bowel, which
3 basically means there's something wrong with your colon, but
4 we don't know what it is.

5 Q. Right.

6 A. And I have precancer polyps. So I have to be seen
7 regularly. So he recommended I go to Dr. Salder because
8 Dr. Salder is a tri-state recommended GI specialist, and he's
9 the best -- one of the best in the industry. So I went to
10 him because I was very gun shy after I almost bled to death.

11 Q. So he's the doctor that diagnosed you with Crohn's and
12 you see him --

13 A. Right.

14 Q. -- also for your --

15 A. Ulcerative colitis.

16 Q. -- ulcerative colitis?

17 And was there any testing done on your lower-back
18 pain?

19 A. No. I think that I had done the chiropractor thing,
20 but no testing was done on my lower back besides what was
21 done at the time of the injury.

22 Q. He diagnosed it, based again, on what you told him?

23 A. Right. He had the x-rays and the MRI and all that
24 stuff. He had all of that.

25 Q. Where did he get those from?

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1 A. He got them from the hospital in Michigan where it all
2 happened. I signed a release. He had them sent.

3 Q. Was this during a pregnancy?

4 A. No.

5 Q. I thought you said it was -- injections?

6 A. No. The injections are in my hands.

7 Q. Got you. So when you left Dr. McDonald, did he have
8 you prescribed hydrocodone, acetaminophen, the Lortabs and
9 also to clonazepam?

10 A. Klonopin.

11 Q. Klonopin?

12 A. Yes.

13 Q. Okay. And then that would be also what Jeff Young
14 prescribed to you first?

15 A. Yes. And we changed the Klonopin because the Klonopin
16 does not work very well for my anxiety, and the Xanax did. I
17 mean, they -- some medicines are good medicines when they're
18 used properly. I just can't use them properly. But that
19 particular one, I needed to be on Xanax at that stage.

20 Q. Very fair to say that the drugs themselves are not
21 bad, the way that they're used or abused can be bad?

22 A. Right. And, like, I was going through a divorce, and
23 I was seeing my mom, just got back out in the real world.
24 And then, boom, a couple of months later, we found out that I
25 was pregnant. But at that point, that's what was going on.

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1 Just got out of a divorce and all that stuff.

2 Q. Okay. So was it with consultation with Mr. Young that
3 you changed to Xanax?

4 A. Yes.

5 Q. You explained to him you weren't having any real
6 success with the drugs you were that prescribed?

7 A. Right.

8 Q. He maintained the same -- at this point the same dose
9 level of the Lortab but changed out your, I guess, that's
10 benzodiazepine --

11 A. Right.

12 Q. -- to a different one that you felt would be more
13 beneficial to you?

14 A. Right.

15 Q. And did you tell him you were receiving benefits from
16 it, that it was helpful, more helpful?

17 A. I'm sure that I did. After the first -- like, I took
18 Hailey to him, my oldest daughter. I took her once or twice
19 before it started getting, like -- I guess, monotonous as I
20 would just go in, and I would get my prescription and leave.
21 And so whenever the lack of -- I don't know what you would
22 call it -- was lost, I stopped taking Hailey there because my
23 daughter was also struggling with some anxiety-type issues
24 from me being in an abusive relationship and getting out of
25 it and stuff.

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1 Q. Did at some point, when you would come in each month,
2 the visit just got shorter and shorter? As it seems, you
3 were just there to get your prescription filled. He would
4 ask you is everything okay, is the medication still working?

5 A. Right. I would go in. I would get weighed by the
6 nurses and stuff, triaged. I would wait in the waiting room,
7 and then I would be put into a room. He would actually come
8 in and ask if everything was all right. He would, you know,
9 find out what prescriptions I needed refilled. And then he
10 would do a checkup. He would listen to my heart, my lungs,
11 and everything, to make sure that that was stuff was okay.

12 Q. Do you know if your record from Dr. McDonald, your
13 medical record was transferred in to Mr. Young's --

14 A. I have no idea. I signed for it to be.

15 Q. Okay. And that would have contained all the records
16 of your testing previously?

17 A. Correct. I would think so. I don't know. I don't
18 work in that field.

19 Q. If -- well, fair enough. We'll leave it there.

20 When you came in and you had gone to see some other
21 medical providers and you were trying to explain to them that
22 you had -- you were just sick, you were just nauseous,
23 throwing up, you didn't get any -- they didn't really do
24 anything for you, did they?

25 A. I'm sorry, what are you referring to?

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1 Q. At some point, you got a prescription for, was it,
2 Phenergan?

3 A. Phenergan from Jeff?

4 Q. Yes.

5 A. Yes, sir. That was when I was pregnant with A. I
6 had -- like I said, I was really sick. I went to
7 Dr. Hoeldke, but Dr. Hoeldke is a high-risk doctor. He
8 doesn't do that type of stuff in his office. So he was
9 referring me downstairs to the emergency room, and I was not
10 going to go wait in the emergency room. Plus, I had to go to
11 Jeff's office anyway to get my prescriptions, so I went to
12 Jeff. And Jeff treated it in the office because he was my
13 doctor. I went to see all three of my doctors on the same
14 day every month.

15 Q. So it was kind of, you went to them, you told them
16 your symptoms, said that you had been to Dr. Hoeldke, and he
17 wanted to send you to the ER. And then based on your
18 complaint, Jeff wrote you a prescription for basically
19 antinausea medicine?

20 A. Right. He gave me a shot of it in the office and
21 wrote me a prescription for it to go home with me.

22 Q. Did it make you better?

23 A. I mean, the shot made me stop throwing up.

24 Q. Okay.

25 A. And I left and got my prescription filled. So I

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1 ultimately felt better, regardless.

2 Q. Oh, good point because at this point you were --

3 A. I was having --

4 Q. -- not taking your medication correctly?

5 A. I was not taking my medicine correctly. So when I
6 took my medicine, it was like --

7 Q. -- relief?

8 A. Yeah.

9 Q. Did you tell -- I keep saying Jeff. Did you tell
10 Mr. Young you weren't taking your medication correctly?

11 A. I didn't.

12 Q. You didn't want to tell him, did you?

13 A. No.

14 Q. Because you were afraid if you did, he would cut you
15 off?

16 A. Well, it was that, and it was kind of a humiliation
17 thing of I had slipped.

18 Q. Okay. That's fair enough because you had been through
19 it once before?

20 A. Right.

21 Q. And you knew that even though you had come out of a
22 pain specialist who was prescribing you basically the same
23 medication, you had slipped into that from the person who
24 needs medication to the person who's abusing medication and
25 taking too much?

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1 A. Right.

2 Q. And because of that, the shame, you wouldn't tell
3 Mr. Young?

4 A. Right. I wouldn't tell him, and, you know, when the
5 drug tests came back, that was an all-points bulletin, red
6 flag, ding, ding, ding, ding, ding, something is wrong, she's
7 not taking her medicine like she's supposed to. And the way
8 I looked at it was, if he's my doctor or my friend, he would
9 see that something is going on. And, clearly, it's not as
10 bad as other people are telling me it is if he's not saying
11 anything about it.

12 Q. You were faking some of those urine screens, weren't
13 you?

14 A. I'm sorry?

15 Q. Were you faking your urine screens?

16 A. Yes. Because I didn't have it in my system, so I
17 would save just a piece of the pill. That way I could take
18 the rest of the pills, and it was either taking them or
19 selling them.

20 Q. Okay. Okay. Your high-risk OB, Dr. Hoeldke --

21 A. Correct.

22 Q. -- did he ask you what medications you were on?

23 A. He did ask me what medications I was on. And when I
24 told him, he recommended that I get off of them.

25 Q. Did you do that?

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1 A. I did not. I told him that I was going to continue to
2 take my medicine because I was not going to be miserable in
3 pain and that he could consult with Jeff. Jeff could consult
4 with him, whatever they needed to do, but I was not at a
5 point where I could just stop.

6 Q. But he explained to you what the possible dangers were
7 if you continued to use those drugs?

8 A. He did not. As I said before, I have never fully
9 understood or been told what opioids or Xanax do to an
10 infant.

11 Q. Dr. Hoeldke, the high-risk OB didn't tell you why --

12 A. He didn't.

13 Q. -- he was trying to tell you to not take them?

14 A. He didn't. He actually leaned towards the Crohn's
15 disease. He was, like, you know, I really think this is
16 making you worse. I think that it's making you have
17 constipation, and it's making your Crohn's worse. And that's
18 kind of the route that he took with it.

19 Q. No warning from your high-risk OB?

20 A. No.

21 Q. Okay. Had you ever used that physician before?

22 A. No. But my sister had, and she actually did use
23 Dr. Hoeldke when she was high-risk pain management as well.

24 Q. What made you high risk? You're not diabetic. You're
25 not overweight.

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1 A. Because I was on pain management.

2 Q. So you specifically went to him because of the pain
3 management?

4 A. Correct.

5 Q. Okay.

6 A. And he monitored the development of my child's brain,
7 her body, her body weight, her body mass, her heart. So he
8 would look at her every month to make sure that she was okay.

9 Q. And he was following her because of the fact that you
10 were coming through a pain management and then with -- with
11 Jeff Young having your pain managed through opioids and pain
12 pills?

13 A. Correct.

14 Q. Okay. Okay. And so was he also responsible for the
15 delivery of your baby?

16 A. No. Dr. Armie Walker was the -- she didn't deliver A.
17 It was one of her colleagues that delivered her, but she
18 performed my surgery after.

19 Q. Who referred you to Dr. Hoeldke? Was it Dr. Walker?

20 A. Dr. Walker.

21 Q. So Dr. Walker knew you were on these medications?

22 A. Correct.

23 Q. So Dr. Walker knew you were on these medications and
24 you told her you were going to stay on these, then referred
25 you to a high-risk OB just to follow you to keep you and your

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1 baby safe?

2 A. Correct.

3 Q. Okay. And did any of them explain to you -- I already
4 asked you this. Did -- your child was born with medication
5 in her system?

6 A. Yes.

7 Q. You were still having -- you had gotten a prescription
8 several months before from Jeff that was your last
9 prescription in, like, June or something?

10 A. No, sir. My last prescription was in July.

11 Q. And what was that prescription for?

12 A. 120, I think.

13 Q. Do you remember what drug it was for?

14 A. Percocet, 7.5s. Brittany wrote it, and it was messed
15 up. I want to say that it was -- the number of them was
16 messed up or something, but I went by the office the next
17 day, and it was corrected.

18 Q. Okay.

19 A. Because I had sent him a message.

20 Q. All right. That's my confusion. It's not written by
21 Jeff Young. It would show up --

22 A. Right.

23 Q. -- Ms. Petway under her prescription?

24 A. Correct.

25 Q. Okay. Percocet?

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1 A. Yes, sir.

2 Q. Okay. But if I understood your testimony, that was
3 supposed to be -- what you told Jeff was that that was a
4 prescription for you to have your medication once you gave
5 birth?

6 A. Right. See, okay, that's been a long time ago, so
7 give me just a second.

8 Q. Sure. You can take your time.

9 A. I normally set my doctors' appointments up at the same
10 time each month because I went to all three doctors, but I
11 didn't only go to the doctor. Me and my mom usually would go
12 to the doctor on the same day and -- but when she moved out,
13 we got -- it was distanced, and we weren't on the same page,
14 like, our timeline. But I want to say that I filled those
15 pills, and those pills were to last me through my birth of A.
16 And I went into labor early or something. I don't know,
17 something crazy. But I did get them filled when I was in the
18 hospital.

19 I got a prescription filled when I was in the
20 hospital, but I don't think it was that prescription. That
21 prescription I filled the day that I left the doctor's
22 office, but it was supposed to last me until I had A. But I
23 want to say Dr. Walker wrote me a few hydrocodones because I
24 was already written Percocets as a breakthrough because I had
25 just had surgery.

EXAMINATION OF HOPE ARMENT

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1 Q. Dr. Walker, your OB --

2 A. Right.

3 Q. -- wrote you a prescription --

4 A. Right.

5 Q. -- before or after the birth?

6 A. That would be after the birth.

7 Q. Okay. For the pain control of the surgery?

8 A. Correct. And I didn't have the surgery for two days.

9 It was two days after the birth, and then I was at the

10 hospital for two weeks with A. And then I would have went

11 back to Jeff and got my next prescription.

12 Q. Were you -- did Dr. Walker or Dr. Hoeldke tell you

13 that if you continued on opioids, pain medication, throughout

14 your pregnancy that there was a protocol in which the child

15 would need to be observed for a couple of days after birth to

16 make sure --

17 A. No, nobody told me that. Actually, I woke up in the

18 middle of the night. I had just had surgery. They gave me

19 an Ambien because I couldn't rest. A. had been in my room

20 for the last three nights, and everything was just fine. And

21 whenever I took her blanket off, she shivered a little bit.

22 But I -- my other two children did the exact same thing so I

23 thought nothing of it.

24 Well, they took her to the nursery that night so that

25 I could rest, and the doctors in the nursery saw her do it

EXAMINATION OF HOPE ARMENT

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1 and put her into the NICU while I was asleep and woke me up
2 to let me know that that's where she was at. And they had
3 already started the morphine at that point.

4 Q. Okay. But without asking you?

5 A. Right. They did not ask me because it was already
6 documented in my chart that I was a --

7 Q. High risk because of --

8 A. -- that I was a pain patient.

9 Q. Pain patient. So if your chart, it said you were a
10 pain patient so that they would be aware to be observant and
11 then take the appropriate response should they need to?

12 A. Correct.

13 Q. And it was your understanding that was the correct
14 medical response in this situation? They were prepared for
15 it?

16 A. I feel like it was a little -- I feel like they jumped
17 the gun a little bit, but that's just my personal opinion.
18 And that was the NICU doctor's opinion that night in the --
19 when I came down there. I was, like, what did she get even
20 put down here for because I don't understand. But then once
21 she was there, they swabbed her nose, and she had MRSA. So
22 then she had to be weaned off the morphine that they put her
23 on as well as fight MRSA.

24 Q. You don't think she needed to be put on morphine?

25 A. I did not see signs or symptoms. I have three

EXAMINATION OF HOPE ARMENT

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1 children. My other two children, when you take their clothes
2 off to change their diaper and they are a newborn baby, you
3 unswaddle them, they are going to shiver a little bit in a
4 hospital. It's cold. And that's what I thought was going on
5 with A. Now, I'm not a physician. I can't say that she
6 wasn't having withdrawals, and there were opiates in her
7 system. So she could have been. But I feel like they
8 shouldn't have took my child and put her on a stronger opiate
9 without my permission, no.

10 Q. And then the MRSA, when you're talking about MRSA,
11 you're talking about a bacterial infection?

12 A. I'm not sure what MRSA actually is, but MRSA lives in
13 the nose. It's contracted with babies through their nasal
14 passage. Pretty much anybody that's had any kind of
15 amputation or transplant or anything like that, they can't be
16 around the child. So she had to be isolated. We had to wear
17 MRSA gear. I couldn't even hold my child like I wanted to
18 because she was in the NICU.

19 MR. FERGUSON: May I approach, Your Honor?

20 THE COURT: Yes.

21 BY MR. FERGUSON:

22 Q. I just want to show you the Government's
23 Exhibit 814.3. It hasn't been marked yet. It's the third
24 page to the Government's Exhibit 23.

25 THE COURT: Got you.

EXAMINATION OF HOPE ARMENT

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1 BY MR. FERGUSON:

2 Q. Can you identify that pretty thing right there?

3 A. That's my daughter.

4 Q. And can you tell me what day that was taken on?

5 A. That was [REDACTED].

6 THE COURT: Hold on just one moment.

7 MR. PENNEBAKER: We actually didn't introduce
8 that.

9 MR. FERGUSON: I'm doing it right now.

10 MR. PENNEBAKER: Okay.

11 BY MR. FERGUSON:

12 Q. Who is that pretty thing?

13 A. That's A.

14 Q. Can you tell me what day that photo was taken?

15 A. That was [REDACTED]. The top one is A. I'm
16 holding.

17 Q. Okay. So how many days after the delivery of your
18 child is this?

19 A. That was the day of the delivery of my child. It was
20 just posted a couple of days later. I dressed her up in
21 every outfit I had.

22 MR. FERGUSON: I'll ask to introduce that as the
23 next exhibit, Your Honor.

24 THE COURT: We'll go ahead and receive it. That
25 will be 24.

EXAMINATION OF HOPE ARMENT

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1 (Exhibit 24 marked and received.)

2 MR. FERGUSON: Give me just a second to put it up
3 for the jury.

4 BY MR. FERGUSON:

5 Q. This is the birthday?

6 A. That's the day she was born, yes.

7 Q. Is that you?

8 A. Yeah.

9 Q. And who is the young man there?

10 A. That's my son.

11 Q. Good looking baby. Who is that?

12 A. That's A.

13 Q. Same day?

14 A. Same day. She still had the bow on her head. Same
15 day.

16 Q. All right. You sent Jeff a text that day, didn't you?

17 A. Yes.

18 Q. Were you wanting to get back to his office because you
19 were on medication?

20 A. I mean, at that point, that particular message, just I
21 wanted him to see A. I wanted the world to see A. And
22 there's actually a picture of Jeff holding A.

23 Q. Okay. She's healthy now?

24 A. She is very healthy now. Very smart.

25 Q. She was from what you can tell healthy?

EXAMINATION OF HOPE ARMENT

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1 A. She was a normal child --

2 Q. Okay.

3 A. -- but, I mean, again --

4 Q. Not a doctor?

5 A. Not a doctor.

6 Q. I understand. You're a mama.

7 A. Yeah.

8 Q. Thank you.

9 A. You're welcome.

10 MR. PENNEBAKER: Nothing from the Government,
11 Your Honor.

12 THE COURT: Okay. All right. Ms. Rogers or is
13 it Arment?

14 THE WITNESS: Arment.

15 THE COURT: I think we're done, so you're
16 excused. You may step down.

17 THE WITNESS: Okay. Thank you.

18 THE COURT: We've been going for a couple of
19 hours, so I think I'm ready for a break. I don't know if
20 y'all are or not. So we'll take about 15 or 20 minutes. The
21 rules are always the same. Don't discuss the case amongst
22 yourselves or allow anyone to discuss it with you. Leave
23 your notebooks in your chairs. They'll be there when you
24 come back. I'll go ahead and excuse you to the jury room.

25 (Jury out at 3:36 p.m.)

EXAMINATION OF DEMARCUS SCALES

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1 DEMARCUS SCALES,

2 called as a witness on behalf of the Government, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. PENNEBAKER:

6 Q. Good afternoon, Special Agent Scales. Would you state
7 and spell your name for the record, please.

8 A. Demarcus Scales. Scales, S-C-A-L-E-S.

9 Q. Okay. Special Agent Scales, where do you work?

10 A. The Tennessee Bureau of Investigation.

11 Q. What do you do for them?

12 A. I'm a criminal investigator special agent.

13 Q. Okay. What does a criminal investigator special agent
14 do?

15 A. I'm assigned to the Medicaid fraud control division
16 investigating provider fraud as well as abuse, neglect and
17 financial exploitation of the elderly as well as individuals
18 with developmental disabilities with the nexus -- a TennCare
19 nexus.

20 Q. Have you worked on a case involving the defendant,
21 Jeffrey Young?

22 A. Yes.

23 Q. Have you looked at the CSMD data for the prescriptions
24 that the defendant wrote?

25 A. Yes.

EXAMINATION OF DEMARCUS SCALES

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1 Q. Have you reviewed evidence from search warrants
2 executed on the defendant's Facebook account?

3 A. Yes.

4 Q. How about his iPad?

5 A. Yes.

6 Q. How about his phone?

7 A. Yes.

8 Q. Have you reviewed search warrant evidence from his
9 house?

10 A. Yes.

11 Q. And from his office PREVENTAGENIX?

12 A. Yes.

13 Q. Have you reviewed the Government's exhibits in the
14 800s as we've designated them?

15 A. Yes.

16 Q. And none of those have been admitted into evidence,
17 although you heard earlier that there were three pages of
18 Hope Rogers' summary exhibit that were admitted previously.
19 Do you remember that?

20 A. Yes.

21 Q. Okay. Let me hand you what's been previously marked
22 for identification as Government's 803. And do you recognize
23 that to be a compilation summary exhibit involving Adrienne
24 McKenzie?

25 A. Yes.

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1 MR. PENNEBAKER: Your Honor, the Government moves
2 to admit what will be Exhibit 74.

3 THE COURT: It will be Number 74.

4 MR. PENNEBAKER: Thank you, Your Honor.

5 (Exhibit 74 marked and received.)

6 MR. PENNEBAKER: And, Ms. Silverberg, if you
7 would publish, please -- go to page 3.

8 Thank you. Okay. So we're going to go to page 3
9 of Exhibit 74. Let's see how it goes.

10 BY MR. PENNEBAKER:

11 Q. All right. Okay. Special Agent Scales, can you tell
12 the jury how this exhibit works?

13 A. So what this is, it's a combination of the text
14 messages and Facebook. For example, this one is Adrienne
15 McKenzie and Mr. Young. So this is going to be their text
16 message thread as well as it could potentially have Facebook
17 along with it and -- what you've heard of as the CSMD or PMP
18 data. And what we've done is we've put it in order where you
19 can -- we would cross reference it initially. But now it's
20 in a somewhat chronological order where you can just read
21 along with it.

22 Q. Okay. So the source of each entry in this
23 spreadsheet, is that what's over there on the right-hand
24 column, the far right column that says SMS and PMP on there?

25 A. Yes.

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1 Q. So just while we're getting oriented to these
2 exhibits, because we're going to look at a few of these,
3 right?

4 A. Yes.

5 Q. While we're getting oriented, can you tell the jury
6 what an SMS is?

7 A. That would be a text messages.

8 Q. And how about an MMS?

9 A. That would be a video, picture, a jif or gif or
10 however you pronounce it.

11 Q. How about what -- what's the entry for Facebook?

12 A. FB.

13 Q. And how about that PMP, is that also CSMD?

14 A. Yes, sir.

15 Q. So I think the last thing that we need to decrypt here
16 is the shading of these cells. Can you tell the jury what
17 the difference between the gray and the white is?

18 A. So the white is going to be the messages, whether it's
19 Facebook text messages or a picture or a video. The gray is
20 going to be the PMP or CSMD data.

21 Q. Okay. Special Agent Scales, I am going to -- well, do
22 you recall hearing that clip that was kind of garbled and
23 that we stipulated was the defendant answering a question
24 that Ms. Pickering -- or that -- excuse me -- Investigator
25 Blair asked about whether or not the defendant had had a

EXAMINATION OF DEMARCUS SCALES

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1 sexual relationship with a woman named Courtney Howell
2 Taylor?

3 A. Yes.

4 Q. And do you remember his response: No.

5 And then she asked: Never?

6 And he says: Never.

7 A. Yes.

8 Q. And that's Government 613A, right?

9 A. Yes.

10 MR. PENNEBAKER: Which was then marked as --

11 MS. SILVERBERG: -- 67.

12 MR. PENNEBAKER: -- Exhibit 67.

13 BY MR. PENNEBAKER:

14 Q. All of that seem square so far?

15 A. Yes.

16 Q. Okay. Give me a chance. I'll fail you.

17 All right. Let's go -- actually, let me hand you
18 first what has been marked for identification as Government's
19 806. Is this a summary exhibit like the one that we just
20 looked at but for an individual named Courtney Howell Taylor?

21 A. Yes.

22 MR. PENNEBAKER: Okay. The Government moves to
23 admit exhibit -- well, what's previously been marked as 806
24 as Exhibit 75.

25 THE COURT: I don't know about all those

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1 identification numbers. We'll introduce it. It will be
2 Exhibit 75.

3 (Exhibit 75 marked and received.)

4 MR. PENNEBAKER: Thank you, Your Honor. I'm glad
5 I don't have to jumble that any further.

6 And if we could call up, please, Ms. Silverberg,
7 page 1.

8 BY MR. PENNEBAKER:

9 Q. All right. So at the top you see that it says this is
10 our CSMD, SMS, MMS, Facebook summary, right?

11 A. Yes.

12 Q. And what's the date in that first message?

13 A. 7/25/2015.

14 Q. All right. We have a -- it looks like we have three
15 prescriptions on this slide, correct?

16 A. Yes.

17 Q. And those come after a photograph of an individual,
18 right?

19 A. Yes.

20 Q. So what are those three prescriptions for?

21 A. Alprazolam, tramadol and diazepam.

22 Q. Two benzodiazepines and an opioid?

23 A. Yes.

24 MR. PENNEBAKER: All right. Ms. Silverberg, if
25 we could go to page 2, please, and let's zoom in on the first

EXAMINATION OF DEMARCUS SCALES

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1 six lines or so.

2 BY MR. PENNEBAKER:

3 Q. So this is -- these are Facebook messages it says on
4 the right-hand column, correct?

5 A. Yes.

6 Q. So as we're going through these, if it's all right
7 with you, I'll read the part of the defendant, and you can
8 read the part of the other participant in the conversation.
9 Is that all right?

10 A. Yes, sir.

11 Q. You don't have much of a choice.

12 Okay. So on June 8, 2016, does the defendant say: We
13 could have a great time if you're discreet?

14 A. Yes.

15 Q. And then what does Ms. Taylor say?

16 A. Well, duh, I am married to a wonderful man. Just
17 curious and bad. LOL.

18 Q. Well, I'm down if you want to explore more. My office
19 is hot too. Need to just take my pants off.

20 Do you see all that?

21 A. Yes.

22 MR. PENNEBAKER: Could we, please,
23 Ms. Silverberg, go to page 5? And if you could zoom in.
24 There you go. Perfect.

25 BY MR. PENNEBAKER:

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1 Q. And these are now text messages on a phone, correct?

2 A. Yes.

3 Q. So if you want to start by reading Ms. Howell's part.

4 A. So did you like today? Did I get better from
5 yesterday?

6 Q. Baby, it was phenomenal. I love fucking you.

7 A. Good, because I do not want to stop any time soon.

8 Q. Don't ever -- oh, yeah, that's her.

9 A. Don't ever be shy to tell me if I need to work on
10 anything.

11 Q. Okay. What is the investigative value in this
12 exchange, Special Agent Scales?

13 A. These conversations contradict what was said in the
14 video with Mr. Young and the investigator.

15 Q. Mr. Young lied to the investigator about sex with
16 Ms. Howell?

17 A. Yes.

18 Q. Was Jeff Young prescribing to Courtney Howell at the
19 time?

20 A. Yes.

21 MR. PENNEBAKER: If we can go to that first
22 prescription. I believe it's page 12. Perfect. Okay.

23 BY MR. PENNEBAKER:

24 Q. So do you see two prescriptions on this page?

25 A. Yes.

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1 Q. And what are those prescriptions for?

2 A. Diazepam and hydrocodone.

3 Q. Okay. So one is a benzodiazepine, and one is an
4 opioid, correct?

5 A. Correct.

6 MR. PENNEBAKER: If we could go to page 7,
7 please. If we could zoom in on the bottom third. Perfect.

8 BY MR. PENNEBAKER:

9 Q. If you could start reading, Special Agent Scales, at:
10 Don't tease me.

11 A. Don't tease me and not deliver. If I ever want to
12 stop by your office, what is your drink of choice, and, no,
13 it will not be happening tomorrow. I am too booked up.
14 Coffee, what kind? Slush, teas, etc?

15 Q. Vodka.

16 A. So if I come by one day next week, bring Vodka.
17 What's your preference of Vodka? I'm a whiskey, beer type.

18 Q. If? When you come by, damn right.

19 What is the investigative significance of that?

20 A. He's having -- he's mentioned that now he likes to
21 have alcohol in his office --

22 Q. Okay.

23 A. -- drinking while he's at his office.

24 MR. PENNEBAKER: Okay. If we could go, please,
25 to page 9, and if you would zoom in on the bottom third,

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1 please.

2 BY MR. PENNEBAKER:

3 Q. And if you would start with the top message, Special
4 Agent Scales.

5 A. Yes, you going to let me have it today.

6 Q. And then you can skip the next two lines.

7 A. Just wanted you to know you killed my back. Working
8 on my last clients about an hour to an hour and half left.
9 Want to see me or no?

10 Q. Sorry, in a meeting. I want to see you so bad.

11 MR. PENNEBAKER: And if we could go to the next
12 page, please. Zoom in at the top.

13 BY MR. PENNEBAKER:

14 Q. I love it when you can feel the next day that you've
15 been with me, back pain and pussy tender.

16 A. So I have about 45 minutes left. Want to have a
17 meeting? Done. Have a sitter until 7:30.

18 Q. I have my son. I'd love to, but I can't.

19 A. But on a real note, why is my back so jacked? I have
20 taken all kinds of stuff. It will not ease. Ugh.

21 MR. PENNEBAKER: And, then, Ms. Silverberg, if we
22 could just grab the next two or three lines.

23 BY MR. PENNEBAKER:

24 Q. And do you see where the defendant says: Your back is
25 jacked because I fucked the shit out of you?

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1 A. Yes.

2 Q. Okay. And if we could go, please, to -- does he
3 prescribe controlled substances to Ms. Howell after this
4 conversation?

5 A. Yes.

6 MR. PENNEBAKER: If we could go ahead,
7 Ms. Silverberg, and go to page 50, and if we could, once you
8 get there, blow up the middle third of the page, please.

9 BY MR. PENNEBAKER:

10 Q. Okay. So I'll start: We need to step back and access
11 our relationship -- which do you understand that to be assess
12 our relationship?

13 A. Yes, sir.

14 Q. -- you act like you're my wife or something.

15 A. We need to talk ASAP, if that's okay. I know I'm
16 crazy medically from what you say. Did you tell Jonathan
17 anything because I'm being asked to pack up my shit and -- I
18 believe that's supposed to be leave, not when you leave.

19 Q. What -- who is Jonathan?

20 A. Her husband.

21 Q. And how do you know that?

22 A. From the other text messages.

23 Q. Is Jonathan also a patient of the defendant's?

24 A. Yes, he is.

25 Q. What is he being treated for?

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1 A. He -- I believe he had cancer.

2 Q. So then the defendant says: No. I guess I didn't
3 tell -- tell Jonathan anything.

4 And then Ms. Howell says --

5 A. -- liar.

6 Q. He texted me last night after getting your phone. He
7 doesn't know who I am.

8 A. Then why did he say that I'm obsessed with you and
9 psychiatric help? I'm sure I'm not the only patient you have
10 fucked, huh?

11 MR. PENNEBAKER: And then, Ms. Silverberg, if you
12 could pull up the rest of that page.

13 BY MR. PENNEBAKER:

14 Q. So go ahead, Special Agent Scales.

15 A. Everything good luck, Bro. Your world is about to get
16 fucked by me. Telling me to leave you alone. Oh, I will,
17 but, legally, I bet this would not look good for your career,
18 FYI. I saved everything, especially your compliments.

19 Q. You need help.

20 Right?

21 A. Yes.

22 Q. This will be my last text ever. Don't ever threaten
23 me or my business. All I did was try to help you.

24 Is that right?

25 A. Yes.

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1 Q. And, Special Agent Scales, I have a Redwell here of
2 demonstratives that I'm going to leave with you.

3 MR. PENNEBAKER: And, Your Honor, we're not going
4 to offer these into evidence because they're just summing up
5 the pills prescribed in another exhibit. I've discussed this
6 with Mr. Ferguson. I don't think he has any objections.
7 We're just going to use them as demonstratives.

8 THE COURT: All right. Go ahead.

9 MR. PENNEBAKER: Could we please publish the
10 summary of Ms. Taylor.

11 BY MR. PENNEBAKER:

12 Q. Special Agent Scales, I don't think we need to publish
13 this one necessarily, but do you have it in front of you, the
14 summary about Ms. Howell?

15 A. Yes.

16 Q. And how many total controlled substance pills was she
17 prescribed in the, roughly, three-month period that she was
18 seeing the defendant?

19 A. Six hundred and ninety.

20 Q. Six hundred and ninety pills?

21 A. Yes.

22 Q. What types of drugs was she receiving?

23 A. Diazepam, hydrocodone, tramadol.

24 Q. Okay.

25 MR. PENNEBAKER: And if we could go, please --

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1 actually, let me hand you -- oh, if we could go to
2 Exhibit 74. Go back there. And we'll just go to the first
3 page, and if you could zoom in on the top, please.

4 BY MR. PENNEBAKER:

5 Q. What's the date of that first exchange up there at the
6 top or that first message up there at the top, Special Agent
7 Scales?

8 A. 12/7/2016.

9 Q. So December 7, 2016.

10 Would you mind reading the first two entries, please?

11 A. I can pay you on the 15th when I come see you for my
12 appointment, but tomorrow is a challenge. Thank you for
13 working with me.

14 Just wanted you to know that I wasn't a woof, woof.
15 You are agreeing to meet me at nine.

16 Q. And would you read the next entry?

17 A. Here is who to expect. I won't be a scary-looking
18 person in the morning.

19 Q. And then Jeff Young says: I expect less clothes.

20 Right?

21 A. Yes.

22 Q. Is this an exchange that suggests to you that these
23 are people that would be meeting in person for the first
24 time?

25 A. Yes.

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1 Q. And do you recall the portion of the interview between
2 Investigator Pickering and the defendant, that May, 2016,
3 interview, where the defendant says: I stopped taking pain
4 patients three months ago?

5 A. Yes.

6 Q. So that's about the -- the three months ago is about
7 nine months before this first entry, right?

8 A. Correct.

9 Q. Does Adrienne McKenzie end up receiving prescription
10 for controlled drugs from the defendant?

11 A. Yes.

12 MR. PENNEBAKER: Let's go, please, to page 2,
13 Ms. Silverberg, and let's go zoom in right there, please.

14 BY MR. PENNEBAKER:

15 Q. So do you see there where Ms. McKenzie writes: Jeff,
16 I need a favor?

17 A. Yes.

18 MR. PENNEBAKER: And then if you would zoom out,
19 please.

20 BY MR. PENNEBAKER:

21 Q. Are those three prescriptions -- there's not a date on
22 here. But are those three prescriptions that are issued that
23 same day based on your review of the CSMD?

24 A. I believe so.

25 Q. And, yeah, if you want to check one of those

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1 summaries.

2 A. Yes.

3 Q. Okay. So after she says, I need a favor, she receives
4 a prescription. What are those three drugs?

5 A. It's alprazolam, dextro and hydrocodone.

6 Q. So a benzodiazepine for anxiety, a stimulant for
7 attention disorders and an opioid?

8 A. Yes.

9 Q. Now, going down to the middle: I recently severely
10 sprained my ankle and broke two toes. Not even my primary
11 will prescribe me an opiate.

12 Do you see that?

13 A. Yes.

14 Q. And then she says: I have been calling your office
15 for days trying to get a return phone call. I understand
16 you're a busy man. No worries. But I am unfortunately on
17 probation. I bought five hydros from a girl to relieve --
18 and it cuts off. What is the investigative significance of
19 that?

20 A. It's a red flag to me. One, because she's on
21 probation. She's informed him as a physician that she's
22 bought five hydros, essentially, off the street and that her
23 primary care won't write her opiates.

24 Q. Okay.

25 MR. PENNEBAKER: If we could go to page 3, the

EXAMINATION OF DEMARCUS SCALES

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1 first sentence. Okay. So if we could blow up that first
2 sentence there. Perfect. Thank you, Ms. Silverberg.

3 BY MR. PENNEBAKER:

4 Q. All right. And so she says: Sorry to send message
5 during bidnass [sic] hours. Get back to me whenever. No
6 rush. By the way, I owe you one. My PO meeting went
7 beautifully.

8 Do you see that?

9 A. Yes.

10 Q. Smiley face, is that what's after that?

11 A. Yes.

12 MR. PENNEBAKER: Then if we can go to page 5,
13 please. It might be page 4, Ms. Silverberg. Sorry.

14 BY MR. FERGUSON:

15 Q. Do you see where it says: Sorry I caught you on a bad
16 day yesterday?

17 A. Yes.

18 Q. If you could go ahead and read from there.

19 A. Hopefully, today I can make my payment and get what I
20 need to show documentation, slash, scripts before my
21 appointment with the PO. She is a stickler.

22 Q. What do you -- what is documentation, slash, scripts?

23 A. Her prescription or information pertaining to her
24 prescription for her probation office.

25 Q. What is your -- what is the investigative significance

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1 of these discussions?

2 A. She's asked for a favor, which was to get scripts for
3 her PO meetings. And she's already stated that her PO
4 meeting went successfully or great or however she worded it,
5 meaning, that he did give her those scripts that -- for her
6 to get by.

7 Q. And is that -- did she admit to taking hydrocodone
8 when she couldn't get a prescription for it somewhere else?

9 A. Correct.

10 Q. So what is the --

11 MR. PENNEBAKER: Let's go to page 7, please, and
12 will you please, Ms. Silverberg, go to LOL, LOL, LOL.

13 MS. SILVERBERG: Just that one?

14 MR. PENNEBAKER: Just that one. Actually, that
15 one and the next one, please. Thank you.

16 BY MR. PENNEBAKER:

17 Q. All right. If you would please read her entry.

18 A. LOL, LOL, LOL, I bet she puts the moves on you first,
19 LOL. I do owe you one for sure for helping keep me out of
20 jail. I spaced the other day and meant to get you to reup my
21 hydros. You keep being a good doctor to me, and I bet we
22 could play doctor one day. It's got to be on an off season
23 with the guy so it's totally legal in my brain. That happens
24 from time to time. I'll make sure to let you know when that
25 slot opens up. You better know how to keep a secret. Paul

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1 could never know because G and him are friends.

2 Q. And then does the defendant say: I keep shit on the
3 DL?

4 A. Yes.

5 Q. This is a couple of days before the search warrants
6 are executed at PREVENTAGENIX and the other places we talked
7 about earlier, correct?

8 A. Correct.

9 Q. And do you recall how many pills of controlled
10 substances -- bless you -- the defendant prescribed to
11 Adrienne McKenzie in the month or so that she saw him?

12 A. I believe 263.

13 Q. Okay. All right. I'm going to hand you what's been
14 marked for identification as Government's 807. Is this a
15 summary exhibit that involves three individuals, Jonathan
16 Morris, Cyndal Story and Steven Williams?

17 A. Yes.

18 Q. Thank you.

19 MR. PENNEBAKER: Your Honor, we would offer this
20 as Exhibit 76.

21 THE COURT: Okay. Received. It will be No. 76.

22 (Exhibit 76 marked and received.)

23 MR. PENNEBAKER: Thank you, Judge.

24 And if we could publish page 3, please. If you
25 could zoom in on the top half, please. That's good.

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1 BY MR. PENNEBAKER:

2 Q. All right. Jonathan Morris says: Okay, I've got you
3 a date Saturday night, my wife, myself, you and Cyndal. She
4 knows a little about you and all the good shit I told her. I
5 told her we would keep it on the DL since Lexington is such a
6 small town. This is her.

7 And then the defendant says: Cute.

8 Do you see all that?

9 A. Yes.

10 Q. And then Mr. Morris says: Yeah, she's cool. 28, I
11 think.

12 And then down below the defendant asks: What's her
13 last name?

14 And Mr. Morris states: Story.

15 Looks likes there's another picture sent, and then the
16 defendant says: Sold.

17 Do you see that?

18 A. Yes.

19 Q. All right.

20 MR. PENNEBAKER: Can we, Ms. Silverberg, go ahead
21 and go to page 6, please? Thank you. That's perfect.

22 BY MR. PENNEBAKER:

23 Q. All right. And if you want to read for Mr. Morris.

24 A. I'm so fucking pissed right now. We have been sitting
25 here ready for two hours waiting on her, and she wasn't

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1 answering. She finally text Kristina back with some lame
2 excuse about her sister's house was broken into. I know she
3 is just going back to that douche bag. Fuck it. Bullet
4 dodged. I guess now we need to try and set you up with her
5 sister. She's prettier anyway.

6 Q. Okay.

7 MR. PENNEBAKER: And, Ms. Silverberg, will you
8 please zoom out of there, and go down to the bottom half.

9 BY MR. PENNEBAKER:

10 Q. And go ahead and pick up for Mr. Morris, please,
11 Special Agent Scales.

12 A. Honestly, bullet dodged. I had a feeling she was
13 going to go back to her ex. Battered-spouse syndrome like a
14 motherfucker.

15 Q. And you can stop there.

16 MR. PENNEBAKER: Can we then go ahead and go
17 to --

18 BY MR. PENNEBAKER:

19 Q. Special Agent Scales, does that stop the defendant
20 from eventually interacting with Ms. Story?

21 A. No.

22 Q. Okay.

23 MR. PENNEBAKER: Could we go to page 7, please?
24 So if we could zoom into, I just got here. That's perfect.
25 Just the whole bottom. Yeah, that's perfect.

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1 BY MR. PENNEBAKER:

2 Q. So now we've got someone named Cyndal. Is that Cyndal
3 Story?

4 A. Yes.

5 Q. Is that someone that the defendant prescribes
6 controlled drugs to?

7 A. Yes.

8 Q. Would you go ahead and read that top line?

9 A. I just got here. Dang, you're busy. These girls up
10 here are rude too.

11 Q. And then it looks like Mr. Morris is also texting with
12 the defendant at the time: Sitting here with Cyndal. Sounds
13 like that date is happening, huh?

14 And then the defendant says: Maybe. Sorry.
15 Right?

16 A. Yes.

17 Q. Okay.

18 MR. PENNEBAKER: So if we could zoom out of
19 there, please, and then go to the next page. And it is going
20 to be page 8. Maybe it's page 9. Sorry. Okay. It must be
21 page 8. Apologies. Great. If we could just -- yeah, zoom
22 in on the top half. There you go. That's perfect.

23 BY MR. PENNEBAKER:

24 Q. All right. So Mr. Morris then says: We're sitting
25 here talking to her. Says we can go on a double date.

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1 And then do you see right above that what looks to be
2 the PMP entry --

3 A. Yes.

4 Q. -- that the defendant says to Cyndal: This could get
5 interesting.

6 And then what's that a picture of?

7 A. A demon emoji or an emoji with horns.

8 Q. Okay. So after that, what do we see? Do we see a
9 couple of prescriptions?

10 A. Yes.

11 Q. What are those for?

12 A. Alprazolam and hydrocodone.

13 Q. And alprazolam is a benzodiazepine. Hydrocodone is an
14 opioid. Correct?

15 A. Yes.

16 Q. So this date for this hydrocodone and the
17 benzodiazepine, this is in July of 2016, is it not?

18 A. Correct.

19 Q. So that's actually a month after the interview where
20 the defendant told the Board that PREVENTAGENIX wasn't seeing
21 any new pain patients, right?

22 A. Correct.

23 Q. What is hydrocodone used to treat? Hydrocodone, what
24 is it used to treat?

25 A. Pain.

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1 MR. PENNEBAKER: So a couple of lines down on the
2 same page, if we could call out: Hey, doll. Maybe a little
3 bit above that. I'm sorry, Ms. Silverberg. Perfect.

4 BY MR. PENNEBAKER:

5 Q. Okay. So up at the top, do you want to read for us,
6 Cyndal?

7 A. Hey, I have a favor to ask. The pain med you gave me
8 last time is just not helping at all. Kristina said her and
9 Jonathan were coming up there today. Is there any way you
10 could give me something else and them pick it up for me. I'm
11 running the office by myself this week, and I can barely even
12 take lunch break, and I'm hurting so bad. My mom gave me
13 some 10-milligram Percocet over the weekend that she had left
14 from a surgery, and it helped ten times better.

15 Q. What's the investigative significance of that?

16 A. She's taking her -- it's her mother's Percocet.

17 Q. It's not prescribed to her?

18 A. Correct.

19 Q. Is she asking for that medication here?

20 A. She is.

21 Q. Then she says: Hey, doll, below.

22 And then the defendant says: Per state regs, nothing
23 else can be written within a 30-day period.

24 Do you see that?

25 A. Yes, I do.

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1 Q. Then he asks: What did I write you?

2 A. And he -- she responded: 5-milligram hydros.

3 Q. Is there an emoji outside?

4 A. Yes, a sad face.

5 Q. Okay. A sad face. And then what's the next entry?

6 A. Seriously, I can't take something in between taking
7 those?

8 Q. How many did I write, and, also, you have to be seen
9 in the office for a Schedule II narcotic! It's bullshit, but
10 it's the law.

11 Do you see that?

12 A. Yes.

13 Q. What does Cyndal say?

14 A. Ninety. And, seriously, that's bullshit. I'm running
15 the office by myself and can't even take lunch.

16 Q. And the defendant says: I know. It's redic.

17 Right?

18 A. Yes.

19 MR. FERGUSON: Let's go to page 10, please, and
20 if we could zoom in on the top. From the top to where the --
21 well, right there. Thank you.

22 BY MR. PENNEBAKER:

23 Q. Okay. What does Ms. Story receive in the PMP entry?

24 A. Are we talking about --

25 Q. On this date, yeah, 7/19.

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1 A. Oxycodone.

2 Q. And that's oxycodone 10/325, are those also called
3 Percocets?

4 A. Yes.

5 Q. Is that the same drug that she described having taken
6 from her mom?

7 A. Correct.

8 Q. What was she prescribed by the defendant before that?

9 A. Hydros, hydrocodone.

10 Q. Is oxycodone stronger than hydrocodone?

11 A. Yes.

12 Q. So is she basically getting what she was asking for
13 here?

14 A. Correct.

15 Q. And what happens above that? I'll start reading for
16 the defendant where it says: And you can come as early as
17 you want.

18 A. That sounds good. I'm a good listener and some would
19 say I talk way too much. LOL. I enjoy good conversation.
20 Smiley face. Ba, ha, ha, ha. Come -- snuck that one right
21 in. LMAO. Dang, yeah, I know, opened the door again.

22 Q. And the defendant says: I just need you to open up
23 and actually keep a date for once. That would be a decent
24 start.

25 And then there's another emoji. What's that?

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1 A. It looks like a wink eye with a tongue sticking out.

2 Q. Well done.

3 MR. PENNEBAKER: So can we go to page 14, please?

4 All right. Can we zoom in with the -- well, can we go all
5 the way up to the first gray.

6 MS. SILVERBERG: Right here?

7 MR. FERGUSON: Yes. Perfect.

8 BY MR. PENNEBAKER:

9 Q. All right. On [REDACTED] 2016, what do we see?

10 A. He's written her a prescription for oxycodone again.

11 Q. So this time it's oxycodone HCL 20-milligrams. Is
12 that stronger than Percocet?

13 A. Yes.

14 Q. Does it include the acetaminophen or Tylenol that
15 Percocet does?

16 A. No.

17 Q. Are those often diverted, have high street value?

18 A. Yes.

19 Q. So the defendant says: Happy birthday.

20 And then Cyndal Story says: Thanks for the birthday
21 wishes.

22 And then here comes an individual named Steven
23 Williams, right?

24 A. Yes.

25 Q. And one of you go ahead, please, and read what he

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1 says.

2 A. Jeff, you've always been cool as a fan, but my girl
3 for eight years is -- that is an addictive person, Cyndal
4 Story. You write her any more scripts, you going to kill
5 her, man. She talked about suicide the other night because
6 she was coming off. You giving her enough to kill a horse as
7 many as she is eating, and there is nothing wrong with her.
8 Thanks. And, again, do not contact her on Messenger, and do
9 not write her any more stupid scripts.

10 Q. Okay. So that was on August 28th, and then on
11 September 2nd, what happens?

12 A. He writes her alprazolam, oxycodone, Virtussin, and
13 oxycodone again. I'm sorry -- that was --

14 Q. Looks like, maybe the 20th --

15 A. I'm sorry, that was, yeah --

16 Q. -- right?

17 A. -- the 20th. I'm sorry.

18 Q. So he does not stop prescribing after receiving that
19 note from Mr. Williams?

20 A. No.

21 Q. Does he keep prescribing after that?

22 A. Yes.

23 MR. FERGUSON: If we could please go to page 50,
24 and if we could blow up -- yeah. Perfect.

25 MS. SILVERBERG: Sorry.

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1 BY MR. PENNEBAKER:

2 Q. Okay. So on September 28th, does he prescribe another
3 prescription for Xanax?

4 A. Yes.

5 Q. If you would read what Mr. Williams says on the 4th of
6 October, 2016.

7 A. Jeff, I've asked you nicely a while back to wean
8 Cyndal off or cut her off completely because she's running
9 around here selling them like some kind of drug dealer and
10 then runs out. Is trying to buy them all from everybody she
11 can and is driving me crazy. I know you thought you liked
12 her and all that kind of shit, but, man, give me a break.
13 You're going to get in trouble. We can get in trouble -- we
14 can get in trouble. She about to lose her kid because her
15 baby daddy knows someone that she sells to, and he's turned
16 it into the law. His -- and the text cuts off or the e-mail.

17 Q. And then it looks like Jeff Young accepts a friend
18 request or some sort of a request, and then Jeff Young says:
19 You are requesting a violation of HIPAA. One more text from
20 you and you will find yourself in jail.

21 Is that right?

22 A. Correct.

23 MR. FERGUSON: And then if we could, please, go
24 to page 16. Perfect.

25 BY MR. PENNEBAKER:

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1 Q. So does that stop the defendant from prescribing?

2 A. No, it doesn't.

3 Q. And so Cyndal says: Thanks, Rock Doc. And they have
4 this exchange.

5 And then so in October and November, what happens?

6 A. He prescribes on the -- October 26 alprazolam.
7 There's three prescriptions for alprazolam, one for oxycodone
8 on the 26th, and then in November 28th, another prescription
9 for oxycodone.

10 Q. And is that three alprazolams prescribed on the 26th,
11 is that consistent with a prescription for alprazolam that
12 has two refills on it?

13 A. Can I state that -- can you repeat that?

14 Q. The way that that appears in the PMP with three
15 different prescriptions for 90 alprazolam on the same day, is
16 that because there's a -- two refills in addition to the
17 first prescription?

18 A. Correct.

19 Q. Okay.

20 MR. PENNEBAKER: If we could back out of there,
21 please. So then let's blow up the bottom half.

22 BY MR. PENNEBAKER:

23 Q. And so Cyndal says here -- now, after 11/28 is the
24 last prescription for oxy that we saw, right?

25 A. Yes.

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1 Q. And so on 12/21, Cyndal sends Young a message -- Jeff
2 Young a message: How have things been going? Y'all's news
3 report had me cracking up.

4 And what does he respond?

5 A. He responds that she needs to suck his cock.

6 Q. Are you kidding, she says. And then she says: Why?
7 I think you might fall in love. How about you take me out to
8 dinner once, and let's see where it goes from there. Cat got
9 your tongue.

10 And then what does he say?

11 A. No. Just calling bullshit. You wouldn't go.

12 Q. And then she says: I'm not. You say when and let's
13 go. Things aren't the way they used to be. My situation has
14 changed in the last few months.

15 MR. PENNEBAKER: If we could go to the next page,
16 please, Ms. Silverberg, and then if we could zoom into the
17 bottom half.

18 BY MR. PENNEBAKER:

19 Q. So then starting at Jeff Young saying: I've heard it
20 all before, will believe it when I feel it.

21 What does she say?

22 A. Ha, ha. I told you things have changed, LOL. They
23 did months ago. Then you were tied down, and I'm not that
24 kind of girl.

25 Q. Then -- oh, Jeff says: Yeah, yeah, yeah.

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1 A. I'll prove it to you.

2 Q. Deal.

3 A. Good.

4 Q. And then what happens that day, literally?

5 A. She receives a prescription for oxycodone and
6 tramadol.

7 Q. Okay.

8 MR. PENNEBAKER: And we can pull that down,
9 Ms. Silverberg.

10 BY MR. PENNEBAKER:

11 Q. And do you have, on one of the summaries, the total
12 number of pills that Mr. Young prescribed to Cyndal Story
13 during that, approximately, six-month period? It's not in
14 there? Okay. Does around 1500 sound right? Does that sound
15 about right?

16 A. I would need to see the --

17 Q. Okay.

18 A. -- the data.

19 Q. All right. Now, Special Agent Scales, in addition to
20 those three women, was the defendant prescribing to any other
21 women that he was sleeping with?

22 A. Yes.

23 Q. Okay. Let's look at a few of those. Do you recall
24 hearing testimony about Daphne Joyner, the girlfriend, slash,
25 employee, slash, person receiving prescriptions?

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1 A. Yes.

2 Q. Did we find messages between her and the defendant
3 relating to prescribing?

4 A. Yes.

5 Q. So I'm going to hand you Government's -- what's been
6 marked as Government's 812. Do you recognize that as a
7 summary like the one we've been talking about for Ms. Joyner?

8 A. Yes.

9 MR. PENNEBAKER: Your Honor, the Government would
10 offer this as Exhibit 77.

11 THE COURT: Okay. We'll receive it.

12 (Exhibit 77 marked and received.)

13 MR. PENNEBAKER: Thank you, Your Honor.

14 THE COURT: You don't need to thank me. Just go
15 ahead.

16 MR. PENNEBAKER: If we could, please, call up the
17 first page.

18 BY MR. PENNEBAKER:

19 Q. What's the date of the top prescription up there,
20 Special Agent Scales?

21 A. September 23, 2014.

22 Q. And it looks like the first prescription is a -- an
23 amphetamine, and then the second prescription is hydrocodone
24 acetaminophen, correct?

25 A. Correct.

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1 Q. What does Ms. Joyner say to the defendant on October
2 the 10th, 2014?

3 A. Babe, can you write me something for pain meds? I
4 just took my last one.

5 Q. And he says: Yes.

6 And what does she say?

7 A. Thank you.

8 MR. FERGUSON: Ms. Silverberg, if we could zoom
9 into the middle of that exhibit, just kind of like the middle
10 third. That's great.

11 BY MR. FERGUSON:

12 Q. So I want to point you, Special Agent Scales, to about
13 four lines down there. You see Daphne Montoya?

14 A. Yes.

15 Q. Is Montoya one of the last names that are used by
16 Daphne Montoya or Daphne Joyner?

17 A. Yes.

18 Q. And you see there on April 16, 2015, Ms. Montoya gets
19 a prescription for what?

20 A. Oxycodone.

21 Q. And how many pills does she get over there at the
22 right?

23 A. One hundred and twenty.

24 Q. So then on April -- or on May 8, 2015, Daphne Joyner
25 gets what?

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1 A. Oxycodone 10-milligram with also a quantity of 120.

2 Q. Okay. And then we have -- do we have another

3 prescription for oxycodone 120 after that?

4 A. Yes.

5 Q. When does that happen?

6 A. That would be May 8, 2015.

7 Q. Okay. Is there also one on June 2nd?

8 A. I'm sorry, yes, I was looking at the wrong one.

9 Q. All right. Okay. So 120 count of an opioid like
10 that, based on -- is that -- is there a significance of that
11 number from an investigative standpoint?

12 A. Can you repeat the question?

13 Q. Sure. So is 120 a -- typically a 30-day supply of
14 something like an oxycodone 10-milligram tablet?

15 A. For one person, not two. Or she -- it looks like --
16 it appears to be an alias. So she's gotten two
17 prescriptions --

18 Q. Got it.

19 A. -- or three prescriptions within a two-month period.

20 Q. And what's the investigative significance of that?

21 A. She's been overprescribed.

22 Q. And you're not a doctor, of course --

23 A. Correct.

24 Q. -- but just in your investigations, people getting
25 prescriptions under different aliases, is that a red flag?

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1 A. It is.

2 MR. PENNEBAKER: All right. And then if we could
3 go to the bottom of --

4 BY MR. PENNEBAKER:

5 Q. So, Special Agent Scales, before we move on, is
6 everything in this summary and the other summary, is this all
7 from the defendant's prescription pad? In other words, this
8 is -- these are -- this is CSMD from prescriptions that the
9 defendant has written, right?

10 A. Yes.

11 Q. So the defendant is -- these -- the prescriptions we
12 were just talking about are attributable to the defendant?

13 A. Correct.

14 Q. So that down there at the bottom of the page, does
15 Jeff Young say: Come see me tomorrow?

16 A. Yes, he does.

17 MR. FERGUSON: And could we go to the next page,
18 please, and if we could blow up the top half.

19 BY MR. PENNEBAKER:

20 Q. If you would read, please, the top entry for
21 December 2nd, 2015?

22 A. Hey, can me and spare bear come by? I need to get
23 refills and want to see if you think she needs anything for
24 this horrible cough she has.

25 Q. And he responds: Sure, babe.

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1 Right?

2 A. Correct.

3 Q. And does Ms. Montoya get prescriptions on that same
4 day?

5 A. Yes, she does.

6 Q. And then it looks like a couple of weeks later, does
7 she get additional prescriptions?

8 A. Yes.

9 Q. And are these prescriptions in this block right here
10 all of which were in December, are these all Schedule II
11 drugs?

12 A. Yes.

13 Q. On the 22nd, would you read what Ms. Joyner Montoya
14 says?

15 A. Ha, ha, that's okay. Do you mind if I come by and get
16 a script like you did last time for my teeth. I think it was
17 Lortabs or something 10-milligram. I can be getting it
18 filled, and I'm going to get my toes done while I'm waiting
19 on you to get off.

20 Q. And then he says: Sure.

21 Right?

22 A. Yes.

23 Q. And what's the very next prescription that she
24 receives?

25 A. Hydrocodone.

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1 Q. And that's Lortab, right, the same thing she's asking
2 for by name?

3 A. Yes.

4 MR. PENNEBAKER: If we could zoom out of there,
5 please, and then the bottom half. Thank you.

6 BY MR. PENNEBAKER:

7 Q. So what does Ms. Joyner Montoya say there on
8 February 16, 2016?

9 A. Can I get my refill for Lortab when I get back from
10 work?

11 Q. And then the defendant says: What time?
12 And what does she say?

13 A. I'm fixing to leave Memphis. I'll have to get Angel
14 off the bus at four and come straight there.

15 Q. And then the defendant says: Okay, lover.
16 Right?

17 A. Correct.

18 Q. So how far from Jackson, approximately, is Memphis?

19 A. It's over an hour, hour, 15. Just depends on where
20 you're going.

21 Q. Do you know about how many nurse practitioners you
22 could get to before you got to Jackson if you're coming from
23 Memphis?

24 A. I do not, but I know that it's quite a few.

25 Q. Okay.

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1 A. Several.

2 Q. Does the defendant continue to prescribed for

3 Ms. Joyner Montoya?

4 A. Yes.

5 Q. I'm not going to ask you to do any more math, but

6 suffice it to say that it's multiple additional

7 prescriptions?

8 A. Correct.

9 Q. All right. So now I'm going to hand you what has been

10 marked previously as Government's 804. Do you recognize this

11 as a summary exhibit for a patient named Amy Sanders?

12 A. Yes.

13 MR. PENNEBAKER: And, Your Honor, we would offer

14 this as Exhibit 78.

15 THE COURT: We'll receive it as 78.

16 (Exhibit 78 marked and received.)

17 MR. PENNEBAKER: Ms. Silverberg, could we please

18 pull up the first page of that exhibit? Okay. Can we,

19 please, go to -- blow up the top third of the page. Thank

20 you.

21 BY MR. FERGUSON:

22 Q. All right. So is that the defendant up at the top

23 there, July 23, 2016, again, after taking no more new pain

24 patients, right?

25 A. Correct.

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1 Q. And does the defendant say: Amy, is the Rock Doc -- I
2 guess, this is the Rock Doc?

3 A. Yes.

4 Q. And then he says: We're doing a shoot at the old
5 Bolivar mental hospital. A very sexy Mr. Hyde, James Bond
6 style shoot in formal wear with me and then a few bloody
7 Dr. Jekyll shots in, like, bikini nurse wear versus lingerie.

8 Do you see that?

9 A. Yes.

10 Q. Have any pic I can put together for a profile and get
11 to the photographer?

12 Do you see that?

13 A. Yes.

14 Q. And then what does Amy Sanders respond?

15 A. Did you get the pics. I'll send better ones when I
16 get service.

17 Q. By the way, up at the top there, it looks like
18 June 30, 2016. What do we see there?

19 A. A prescription for oxycodone, 30-milligram.

20 Q. And that's 120?

21 A. Yes.

22 Q. And are you -- would you -- do you know some of the --
23 are you trained about some of the medical purposes for
24 oxycodone, 30 milligrams? Like, do you know what that's
25 typically used to treat? And if you don't, just --

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1 A. No.

2 Q. Okay. But that's, like, three Percocets, right, the
3 10/325s? So if we could -- and then it looks like there's
4 some back and forth here, correct? And then it looks like
5 we're sending explicit pictures by 7/24/2016; is that fair?

6 A. Correct.

7 Q. And by this time, she's already gotten that
8 prescription for oxycodone 30-milligrams, right?

9 A. Yes.

10 MR. FERGUSON: If we could go to page 8. I'm
11 sorry. Page 2. Man, that's small. And if you could just
12 zoom in on that. There, perfect. Maybe it would be better
13 if I could grab this just because it's a little hard to see.
14 I'm sorry. Let's go back to the first page, please,
15 Ms. Silverberg, and probably bottom five lines.

16 BY MR. PENNEBAKER:

17 Q. So Ms. Sanders says down there at the bottom: Between
18 you and me, my habits -- between you and my habits, I have to
19 stay on the run.

20 And then Jeff Young says: Understand.

21 Right?

22 A. Yes.

23 Q. If we could go now -- and that first prescription is
24 for oxycodone, correct?

25 A. Correct.

EXAMINATION OF DEMARCUS SCALES

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1 MR. FERGUSON: So now if we could go to page 7,
2 please. I can go to the Elmo. Okay.

3 BY MR. FERGUSON:

4 Q. All right. So, here, we see Ms. Sanders says: Just
5 waking up, running behind and waiting to see if my friend is
6 going to drive me. Can't wait to see you again. I hope you
7 weren't disappointed yesterday. Just believe me, when we are
8 somewhere I can do what I want and be as loud and destructive
9 as we want, things will be better and different. Thank you
10 for taking care of me, not with just the sex and satisfaction
11 but the Soma too. It helps better than any other out there.
12 I wrote a post about you. Check it out. And at least like
13 it and comment or no one will take me -- and it cuts off.

14 Right?

15 A. Correct.

16 Q. Actually, that was page 7. So on page 4 the same
17 exhibit, what does she say there at the top?

18 A. Doc, you seriously going to have to put me back on
19 Soma, my muscle relaxers. This shit is getting old. All --
20 in all I got you some new pics when I get back and get a
21 bath. I'll send you some and hope you're having a great
22 night. PS, watch your video again. I must say I just had to
23 take a 30-minute break and stop the aching. I do taste so
24 sweet.

25 Q. The essence of discreetness.

EXAMINATION OF DEMARCUS SCALES

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1 What does she say?

2 A. Ah, I know no other way. I hope you too know no other
3 way. #loyalty.

4 Q. #loyally, #silence, #pleasure.

5 So is that Ms. Sanders requesting Soma by name?

6 A. Yes.

7 Q. And then we see here on the 29th -- and, again, it was
8 oxycodone first. The very next prescription she gets after
9 requesting Soma by name, what's added in there?

10 A. Carisoprodol.

11 Q. Which is?

12 A. Soma.

13 Q. Does the defendant continue to exchange explicit
14 images with Ms. Sanders after that?

15 A. Yes.

16 Q. Does the defendant repeatedly continue to prescribe
17 Ms. Sanders both oxycodone 30-milligram and Soma 30-milligram
18 after that?

19 A. Yes.

20 Q. With the last such prescription taking place on what
21 date?

22 A. 12/28/2016.

23 Q. Is that about a week or so before the clinic gets shut
24 down?

25 A. Yes.

EXAMINATION OF DEMARCUS SCALES

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1 Q. And I've just been advised that I said Soma 30, and it
2 should be Soma 350-milligrams. Apologies.

3 All right. Did you review some exchanges involving an
4 individual named Whitney Henley?

5 THE COURT: I think we're going to go ahead and
6 break for the evening now. It's right at 5:30. So we're
7 going to go ahead and break, and we'll pick this up at nine
8 o'clock tomorrow.

9 Ladies and gentlemen, the instruction is always
10 the same, but, please, follow them. Leave your notebooks in
11 the chair. Don't discuss the case with anyone. You've heard
12 quite a bit of proof now. We've cleared everything else for
13 tomorrow, so we can start right at nine o'clock. I'll go
14 ahead and excuse you for the evening.

15 Special Agent Scales, like always, don't discuss
16 your testimony with anyone.

17 THE WITNESS: Yes, sir.

18 (Jury out at 5:32 p.m.)

19 THE COURT: Mr. Pennebaker, how much longer? Oh,
20 wait until the door is shut.

21 MR. PENNEBAKER: Judge, I may have an hour with
22 this witness. And then we have --

23 MS. PAYERLE: I think we only have one more
24 witness.

25 THE COURT: All right. Thanks. We'll be up at

1 **SPECIAL AGENT DEMARCUS SCALES,**
2 having been PREVIOUSLY duly sworn, was examined and
3 testified as follows:

4 **CONTINUED DIRECT EXAMINATION**

5 **BY MR. PENNEBAKER:**

6 Q. Good morning, Special Agent Scales.

7 A. Good morning.

8 Q. Yesterday, where we left off, we were going to talk
9 about an exhibit summary for a patient named Whitney
10 Henley, which is in a folder marked for identification as
11 Government's 823.

12 (A document was passed to the witness.)

13 **BY MR. PENNEBAKER:**

14 Q. Do you recognize that?

15 A. Yes.

16 Q. Okay.

17 **MR. PENNEBAKER:** The government would offer into
18 evidence what's been previously marked as 823 and is
19 now --

20 **THE COURT:** That will be Exhibit 79?

21 **CASE MANAGER:** Yes, sir.

22 **MR. PENNEBAKER:** 79. Thank you, Your Honor.

23 (The above-mentioned item was marked as
24 Exhibit No. 79.)

25 **MR. PENNEBAKER:** Ms. Silverberg, if we could

1 just go ahead and zoom in on "we should meet" on Page 1,
2 please.

3 **BY MR. PENNEBAKER:**

4 Q. Special Agent Scales, is this a series of Facebook
5 messages in April 2016?

6 A. Yes.

7 Q. Okay. So we'll continue. I'll read for the
8 defendant, and you'll read for the witness, if that's all
9 right.

10 A. Yes, sir.

11 Q. Excuse me, not the witness, the -- the other
12 individual.

13 "We should meet."

14 A. "What's up?"

15 Q. "I see you all the time and wonder why we don't
16 know each other. Are you really in Kentucky?"

17 A. "Where on Facebook? And no, I'm in Tennessee."

18 Q. "Yes, and mug shots. You sent me a friend request
19 a while ago, and we have mutual friends. So I was just
20 wondering, because you looked like someone I should
21 know."

22 Special Agent Scales, what is "mug shots"?

23 A. After somebody has been arrested, you'll typically
24 take a mug shot.

25 Q. And is there a website that displays those?

1 A. There are.

2 Q. Okay.

3 **MR. PENNEBAKER:** So Ms. Silverberg, heading down
4 to "I got a referral."

5 **BY MR. PENNEBAKER:**

6 Q. Go ahead, Special Agent Scales.

7 A. "I got a referral to chronic pain management, but
8 need a doc."

9 Q. "I'm the guy they refer to as the Rock Doc."

10 A. "So can you do it? And why that, plus I like it,
11 tats."

12 Q. "Well, I need a crazy, hot girl that likes to have
13 fun."

14 A. "LOL. I'm a nut."

15 Q. "So am I, and really outside the box, so you would
16 be perfect."

17 **MR. PENNEBAKER:** All right. And Ms. Silverberg,
18 if we could go to "how old are you?"

19 **BY MR. PENNEBAKER:**

20 Q. "How old are you?"

21 A. "23. What about you?"

22 Q. "Perfect. My last girlfriend was 25. I'm 42. I
23 only date in the 20s."

24 A. "LOL. I need a car, ha, ha, ha, ha."

25 Q. "Ha, ha, ha, ha."

1 A. "Ha, ha."

2 Q. "Well, I guess that could happen. I could be your
3 sugar daddy if you play it right."

4 **MR. PENNEBAKER:** And then if we can go, please,
5 Ms. Silverberg, to Page 2. "I go to Dr. Eze."

6 **BY MR. PENNEBAKER:**

7 Q. All right. Go ahead, Special Agent Scales.

8 A. "I go to Dr. Eze, but only doc I can get in for
9 pain pills is over an hour away. I already get Xanax."

10 Q. Now, Special Agent Scales, does going an hour a
11 away for pain pills have any investigative significance?

12 A. Why would you be traveling long distances for pain
13 pills?

14 Q. Okay. So the Defendant responds: "All right, sexy
15 ass, but you have my digits."

16 A. "Somebody stole my script. I need some. Okay."

17 Q. "Pain management in Tennessee has become a
18 nightmare. Text me later."

19 Special Agent Scales, is there any investigative
20 significance to somebody stealing my script and asking
21 for some more?

22 A. Yes. She's -- she's asking for more scripts.

23 Q. Is that a red flag?

24 A. Yes.

25 **MR. PENNEBAKER:** And if we could go a little

1 further down on the page, please, Ms. Silverberg. "It
2 means I ain't cheap."

3 **MS. SILVERBERG:** I'm just trying to find it. If
4 you go to the next page.

5 **MR. PENNEBAKER:** It might be on the next page.
6 Apologies. Try 4.

7 **MS. SILVERBERG:** Say that again. Oh, 4.

8 **MR. PENNEBAKER:** Oh, there it is in the middle.

9 **MS. SILVERBERG:** Keep going?

10 **MR. PENNEBAKER:** Right -- right here.

11 **MS. SILVERBERG:** Oh, I see. Sorry.

12 **BY MR. PENNEBAKER:**

13 Q. Okay. Can you start at "I don't trick"?

14 A. "I don't trick, but yes, I need help: money,
15 clothes, et cetera, and drugs like percs and weed, if
16 possible."

17 Q. What is "trick"?

18 A. I guess a way you could -- somebody spending --
19 spending money on an individual.

20 Q. Okay. So drugs like percs and weed -- do you know
21 what percs are?

22 A. Percocet.

23 Q. A Schedule II controlled substance that a nurse
24 practitioner could prescribe?

25 A. Yes.

1 Q. "I have women I don't have to pay for," says the
2 defendant.

3 A. "Obviously. I already knew that, but I'm
4 different."

5 Q. "Then what makes you different?"

6 A. "Religion."

7 Q. All right. And --

8 A. "To be honest."

9 Q. Oh, okay. "To be honest."

10 MR. PENNEBAKER: And Ms. Silverberg, if you
11 could go down to "my daddy."

12 MS. SILVERBERG: "My daddy"?

13 MR. PENNEBAKER: You were doing it right.

14 MS. SILVERBERG: Oh, okay.

15 BY MR. PENNEBAKER:

16 Q. So Special Agent Scales, you said "to be honest,"
17 and Jeff Young says "TBH" and then --

18 A. "To be honest."

19 Q. -- she said "to be honest."

20 Jeff Young says: "My daddy's a preacher. I don't
21 need any more religion. I need a hot babe that likes to
22 get down."

23 A. "And I need a hot doctor to help me out."

24 Q. "Are you good in bed?"

25 A. "Yeah, but I have -- I've talked to you -- you

1 about it."

2 Q. "Talk is cheap."

3 A. "And Whitney ain't."

4 Q. "Laughing out loud. Send me some sexy pics."

5 **MR. PENNEBAKER:** All right. If we could go to

6 Page 7, please, Ms. Silverberg. And could you zoom in on

7 the prescriptions there?

8 **BY MR. PENNEBAKER:**

9 Q. Special Agent Scales, are these two prescriptions
10 issued on June 22, 2016?

11 A. They are.

12 Q. After Ms. Henley has told the defendant that she
13 needs drugs like percs and weed?

14 A. Correct.

15 Q. And what opioid does Percocet have in it?

16 A. Oxycodone.

17 Q. All right. So what does she get from the defendant
18 on 6/22/16?

19 A. Oxycodone.

20 Q. In addition to alprazolam, right?

21 A. Correct.

22 Q. Do you know if that's a dangerous combination?

23 A. It is.

24 **MR. PENNEBAKER:** Now, if we could go to the

25 three lines above that. Actually, yeah, let's go to the

1 three lines above that.

2 **BY MR. PENNEBAKER:**

3 Q. Now, the PMP data, the CSMD data doesn't have a
4 time stamp on it, but the CSMD data we were just looking
5 at was at June 22nd, right?

6 A. Correct.

7 Q. And these three messages are from June 22nd in the
8 evening, at around 7:00 p.m., correct?

9 A. Correct.

10 Q. Okay. So what does Ms. Henley say to the
11 defendant?

12 A. "How many of these you want me" -- is that "throw
13 you"?

14 Q. Uh-huh.

15 A. It's cut off.

16 "I'm trying to sell some. Do you know anybody? I
17 need to get my son's stuff and new clothes and stuff for
18 when we go party, LOL."

19 Q. All right.

20 **MR. PENNEBAKER:** And Ms. Silverberg, if you
21 would zoom into the four entries below the prescription,
22 please.

23 **BY MR. PENNEBAKER:**

24 Q. "What? I don't do that," says the -- says Jeff
25 Young.

1 "I will not be able to write you anything further.
2 You told me you needed them for your multiple car
3 accidents. Not cool. You will be discharged as a
4 patient."

5 Do you see that this?

6 A. Yes.

7 **MR. PENNEBAKER:** So then Ms. Silverberg, if he
8 could go down to the part of the page that says "we still
9 friends, though, right?" That's on Page 8. I'm sorry.

10 **MS. SILVERBERG:** Oh, sorry.

11 **BY MR. PENNEBAKER:**

12 Q. All right. Go ahead, Special Agent Scales.

13 A. "We still friends, though, right? I'd why -- why
14 you're being a dick to me; you have no reason to. I've
15 took up for you to so many people, it's ridiculous. You
16 said we can hang out whenever. I just wanted to be
17 friends with you, nothing more. I know you wrote me what
18 you did because of feds, so there's no reason to
19 discharge me or not be my friends."

20 And she corrected herself with "friend."

21 "I'm one of the best friends you could ever have.
22 You're hurting my feelings, and my feelings don't get
23 hurt. I'm sorry for trying to bring drama into -- I'm
24 sorry, not trying to bring drama into your life, but I
25 love you as a a friend, Jeff, and I love your whole

1 family. So all I ask for is to be respected by you."

2 Q. "You crossed the line asking me to sell pills."

3 A. "Okay. And I also told you in your office I will
4 look out for you. I didn't cross the line then. I mean,
5 you smoke weed. You got roxies you give out around --
6 out around your house, so how did I cross the line when
7 you were the one being cool with shit like that?"

8 Q. Okay. So you got roxies you give out around your
9 house. "Roxy," is that a street name for oxycodone?

10 A. It is.

11 **MR. PENNEBAKER:** If we could go, please, to
12 Page 9, Ms. Silverberg, and then to "I straight."

13 **BY MR. PENNEBAKER:**

14 Q. And go ahead, Special Agent Scales.

15 A. "I straight snorted a roxy 15 you gave to your
16 peoples right in front of you, in your kitchen, plus
17 smoked weed there. So I -- I'd -- why you being so petty
18 towards me when I'm cool -- cool as a fuck, and it ain't
19 my fault. I didn't know you would get mad to save your
20 own ass when you're -- when you party hard. And you told
21 me at the club it's cool; you are being watched, but it
22 was cool for me to come back.

23 I talked to Kristie before I left. She wanted to
24 talk to me, and she said she was going to talk to you
25 when she gets back from lunch. I'm begging you. I have

1 no other doctor to go -- doc to go to. I promise you
2 won't have any more problems out of me. I'm not selling
3 anything. I won't. Please, Jeff. I don't beg, and I
4 didn't mean it when I said what I -- what? I got to have
5 sex with you? But seriously, I'm having panic attacks
6 and shit. Please get me back in. I didn't have sex with
7 your friend either, if that's why you didn't want me back
8 today."

9 Q. Okay. And then if you could go down to "I ain't."

10 A. "I ain't -- the "I ain't reporting"?

11 Q. Uh-huh. Yes, sir.

12 A. "I ain't calling the -- I ain't -- I ain't calling
13 a reporting shit. I ain't getting you in trouble, but
14 you're fucking treating me like I'm a fucking threat to
15 you and your job, when I'm not. But you know you're
16 crooked and so -- and so is some of the people in your
17 office. So, I mean, what the fuck? I like everybody
18 there, except the guy nurse. Fuck it. I hate you. I'll
19 call and report this shit because you fucked me."

20 Q. All right. That's enough. Thank you, sir.

21 **MR. PENNEBAKER:** And that's all we need from
22 that exhibit, Ms. Silverberg. Thank you.

23 **BY MR. PENNEBAKER:**

24 Q. Special Agent Scales, do you remember reviewing a
25 an exhibit involving someone named Tina Powers?

1 A. Yes.

2 Q. And is this that summary?

3 (A document was passed to the witness.)

4 A. Yes.

5 **MR. PENNEBAKER:** The government would offer into
6 evidence Exhibit 813 previously marked, which now will be
7 Government's 80, Your Honor.

8 **THE COURT:** Okay. We'll receive it.
9 Exhibit 80.

10 (The above-mentioned item was marked as
11 Exhibit No. 80.)

12 **MR. PENNEBAKER:** All right. If we could go to
13 Page 2, please, and then zoom in at "I accept."

14 **BY MR. PENNEBAKER:**

15 Q. Is Tina Powers a -- somebody who gets prescriptions
16 for controlled drugs from the defendant?

17 A. Yes.

18 Q. Okay. So I -- the defendant says here: "I accept
19 pics for my birthday."

20 And what is that a picture of?

21 A. Pictures of Ms. Powers in nude.

22 Q. And then the defendant says: "Damn, where are you
23 now?"

24 And then what happens after that?

25 A. She sends another nude.

1 **MR. PENNEBAKER:** If we could go to Page 5,
2 please, and zoom in at "I need to."

3 **MS. SILVERBERG:** Where? Sorry. What did you
4 say, Drew?

5 **MR. PENNEBAKER:** "I need to." Maybe it's Page 6
6 or Page 3. I'm sorry.

7 **THE WITNESS:** It was the previous page.

8 **MR. PENNEBAKER:** Oh, okay. Excuse me. Page --

9 **BY MR. PENNEBAKER:**

10 Q. So there's -- by the way, Special Agent Scales, on
11 Page 3, we see a prescription entry there. What --
12 what's that?

13 A. Hydrocodone.

14 Q. Okay.

15 **MR. PENNEBAKER:** And Ms. Silverberg, if we could
16 go to Page 4. And this is, I believe --

17 **MS. SILVERBERG:** I think it's the next page.

18 Oh, there it is. I found it. Sorry.

19 **MR. PENNEBAKER:** No problem.

20 **BY MR. PENNEBAKER:**

21 Q. So at the top, Mr. Young says: "I need to fuck."

22 A. "Me, too."

23 Q. "I have frustrations to work out. It would be
24 violent."

25 A. "Thank God I'm going to have to come see you

1 tomorrow."

2 Q. "Please see -- I'll see you in my private office."

3 A. "I'll try my best. I promise. I need it."

4 Q. "Me, too. Make it happen, baby."

5 A. "Mm."

6 Q. Okay.

7 **MR. PENNEBAKER:** That's -- I think we're done
8 with that one, Ms. Silverberg.

9 **BY MR. PENNEBAKER:**

10 Q. After that exchange, does Ms. Powers get another
11 prescription for hydrocodone?

12 A. Yes.

13 Q. Does she actually get a prescription for
14 hydrocodone from the defendant every month until the
15 clinic closes?

16 A. Yes.

17 **MR. PENNEBAKER:** If we could go to --

18 **BY MR. PENNEBAKER:**

19 Q. Have you reviewed a summary exhibit for an
20 individual named Shantell?

21 A. Yes.

22 Q. I'm showing you what's been previously marked as
23 Government's 609 or 809. Is that the exhibit you're
24 talking about?

25 A. Yes.

1 **MR. PENNEBAKER:** Your Honor, I would offer the
2 summary exhibit of Shantell Davis as Exhibit 81.

3 **THE COURT:** Okay.

4 **MR. PENNEBAKER:** Thank you.

5 (The above-mentioned item was marked as
6 Exhibit No. 81.)

7 **MR. PENNEBAKER:** And Ms. Silverberg, if you
8 could publish Page 12 of this exhibit, and zoom into the
9 prescription, please.

10 **MS. SILVERBERG:** Just the prescription?

11 **MR. PENNEBAKER:** Yes.

12 **BY MR. PENNEBAKER:**

13 Q. All right. So on March 9, 2015, does Ms. Davis get
14 a prescription from the defendant for Percocet, 45 count?

15 A. Yes.

16 **MR. PENNEBAKER:** Ms. Silverberg, if we could go
17 to Page 19, please, and zoom into that prescription.

18 **BY MR. PENNEBAKER:**

19 Q. And on March 16, 2015, does Ms. Davis get a
20 prescription for clonazepam, 1 milligram, 90 count?

21 A. Yes.

22 Q. Is clonazepam a benzodiazepine like Xanax?

23 A. It is.

24 Q. Okay.

25 **THE COURT:** Excuse me. You've made reference to

1 Ms. Davis?

2 **MR. PENNEBAKER:** Yes.

3 **THE COURT:** Is it Shantell Davis?

4 **MR. PENNEBAKER:** Yes, Your Honor.

5 **THE COURT:** When you hand it up to him, you just
6 said "Shantell."

7 **MR. PENNEBAKER:** Yes, Your Honor. This is
8 Shantell Davis.

9 **THE COURT:** Go ahead.

10 **MR. PENNEBAKER:** If we could go to Page 23,
11 Ms. Silverberg. Zoom in on "I just got home."

12 **BY MR. PENNEBAKER:**

13 Q. All right. If you could start at the top message,
14 please, sir.

15 A. "I just got home. I got so fucked up and did blow
16 for the first time in 13 years last night."

17 Q. What is "blow"?

18 A. I'm not a hundred percent sure. Either heroin or
19 cocaine.

20 Q. Okay. "It's all good. You survived."

21 A. "LOL. Have you recovered from last night?"

22 Q. "I'm back at the emporium actually."

23 A. "Seriously? I really wish you were giving me a
24 congratulations fuck it -- fuck right now."

25 Q. "Me, too."

1 **MR. PENNEBAKER:** All right. And that's all
2 we're going to look at from that one, Ms. Silverberg.
3 Thank you.

4 **BY MR. PENNEBAKER:**

5 Q. All right. Have you looked at a summary exhibit
6 involving a patient named -- or, well, an individual
7 receiving prescriptions from the defendant named Tiffany
8 Webb?

9 A. Yes.

10 Q. Is this that summary exhibit?

11 A. Yes.

12 Q. And it's been previously marked as Government's
13 one -- 810.

14 **MR. PENNEBAKER:** And I'd offer it now, Your
15 Honor, the summary exhibit of Tiffany Webb, as
16 Exhibit 82.

17 **THE COURT:** Uh-huh.

18 **MR. PENNEBAKER:** Thank you, Your Honor.

19 (The above-mentioned item was marked as
20 Exhibit No. 82.)

21 **MR. PENNEBAKER:** And if I could use the ELMO,
22 please, and I'll hand it up to you.

23 **MS. SILVERBERG:** Drew, I can move it that way
24 and do it.

25 **MR. PENNEBAKER:** Oh, you can do it?

1 **MS. SILVERBERG:** I can do it.

2 **MR. PENNEBAKER:** I got you. I don't need the
3 ELMO.

4 **MS. SILVERBERG:** It's loading.

5 **MR. PENNEBAKER:** All right. And if we could go
6 to the November 26, 2015.

7 **BY MR. PENNEBAKER:**

8 Q. Have you seen, in your review of the Facebook
9 account, the search warrant return from the Facebook
10 account, Special Agent Scales, that this is another
11 individual who sent nude pictures to the defendant that
12 just aren't present on this summary?

13 A. Yes.

14 Q. Okay. And did some of those nude pictures get
15 exchanged in November 2015?

16 A. Yes.

17 **MR. PENNEBAKER:** And Ms. Silverberg, if you
18 could zoom in on the prescriptions right there.

19 Yes. Thank you.

20 **BY MR. PENNEBAKER:**

21 Q. Is that in October and November prescriptions for
22 alprazolam, 1 milligram; and hydrocodone, 10, 325?

23 A. Correct.

24 **MR. PENNEBAKER:** Could we please go to the next
25 page, Ms. Silverberg, and if you could zoom in on that,

1 the prescriptions, all the ones that you can see there at
2 the top. Thank you.

3 **BY MR. PENNEBAKER:**

4 Q. And now we've got -- it looks like on December 3rd,
5 we've got oxycodone and carisoprodol. Do you see that?

6 A. Correct.

7 Q. In December, we get alprazolam, oxycodone, and
8 diazepam. Is that two benzodiazepines in the same month?

9 A. Yes.

10 Q. And I believe that the first opioid prescription we
11 saw was for hydrocodone, 10 milligram; now we're on
12 oxycodone, 10 milligram?

13 A. The first one --

14 Q. The one we looked at on the last page.

15 A. Okay. Yes.

16 Q. So is that -- is it fair to say that the defendant
17 is increasing the strength of the opioids that are being
18 prescribed over time?

19 A. Correct.

20 Q. So Special Agent Scales, are these the only women
21 that you and other investigators identified that are
22 exchanging explicit messages with the defendant while
23 they're receiving prescriptions for opioids and other
24 controlled drugs from the defendant?

25 A. No, sir.

1 Q. Are there just a couple more?

2 A. No, sir.

3 Q. Are there more than a dozen more?

4 A. Yes.

5 Q. Are there dozens more?

6 A. Potentially.

7 Q. Okay. Did you also look at the instant messaging
8 and the prescription monitoring data for an individual
9 named Ben Elston?

10 A. I did.

11 Q. Now, is that the individual that we heard Mr. Young
12 refer to as his bodyguard?

13 A. Yes.

14 Q. And I'm going to hand you what's been previously
15 marked as Government's 805, and I want you to tell me if
16 this is a summary of instant messages and PMP with
17 Mr. Elston.

18 A. Yes.

19 **MR. PENNEBAKER:** Your Honor, the government
20 would offer what's been previously referenced as
21 Government's 805 as Exhibit 83.

22 **THE COURT:** Okay. We'll go ahead and receive
23 it.

24 **MR. PENNEBAKER:** Thank you.

25 (The above-mentioned item was marked as

1 Exhibit No. 83.)

2 **MR. PENNEBAKER:** And Ms. Silverberg, if we could
3 go ahead and zoom in at the first -- the top of the first
4 page. Yes.

5 **BY MR. PENNEBAKER:**

6 Q. And go ahead. Is that -- is that a prescription
7 for oxycodone up there at the top for 90?

8 A. It is.

9 Q. And the date is September 25, 2014?

10 A. Correct.

11 Q. So you can go ahead and start reading for
12 Mr. Elston.

13 A. "[REDACTED]. Thanks, Brother, I
14 owe you."

15 Q. Is that Mr. Elston giving the defendant his
16 identifiers?

17 A. Yes.

18 Q. Birth date, phone number?

19 A. Yes.

20 Q. Okay. "Prescription is ready."

21 A. "Thanks, Brother. If you ever need me, I got your
22 six, man. Thanks for helping me out."

23 Q. "My pleasure, Bro. You in my family now."

24 A. "Roger that. You're in mine."

25 Q. "Winky, tougue sticking out" emoji.

1 And then is there another prescription for
2 clonazepam on October 1, 2014, that goes to Mr. Elston,
3 120 count?

4 A. Yes.

5 Q. What is "I got your six"?

6 A. Meaning that I got your back.

7 **MR. PENNEBAKER:** If we could go to Page 2,
8 please, Ms. Silverberg, and zoom in at "okay, he'll
9 make."

10 **BY MR. PENNEBAKER:**

11 Q. Will you start at "call me later"?

12 A. "Call me later, if you want, and fill me in on your
13 ex messing with you, if you feel comfortable doing that,
14 and let me see if I can help you with that problem. Only
15 if you want. Our conversation with be completely
16 classified."

17 Q. "It's a McNairy County issue for now. If it gets
18 transferred here, I'll be in touch."

19 A. "We've got powerful friends there, too. Dawanna
20 Pusser is like a second mom to me, and she's a powerful
21 woman. Just let me know. I got this."

22 **MR. PENNEBAKER:** All right. And if we can go to
23 Page 5, please, Ms. Silverberg. And "Ben, my ex is
24 dating."

25 **BY MR. PENNEBAKER:**

1 Q. "Ben," says Jeff Young.

2 "My ex is dating Jeff Shepard with the JPD. Dawn
3 has been having him doing background checks on all my
4 friends and trying to start shit. Can you get him a
5 message and tell him to stay the fuck out of my business?
6 I don't care if he fucks my ex. He just needs to know
7 that she's a psycho bitch and that everything she says
8 about me is her side. I can give a fuck who she dates,
9 but using his position to get in my business is
10 unacceptable. Also, the Montoya brothers have been
11 causing me some problems, Jonathan and Michael. We may
12 need to deal with that shit, too. I've had your six; I
13 need you to have mine."

14 You see all that?

15 A. Yes, sir.

16 Q. You're in law enforcement. Is it appropriate for a
17 member of the public to have a member of law enforcement
18 run backgrounds?

19 A. It is not.

20 **MR. PENNEBAKER:** Okay. If we can please go to
21 "I'm on it."

22 **BY MR. PENNEBAKER:**

23 Q. Go ahead, Special Agent Scales, please.

24 A. "I'm on it. I can definitely deal with the Montoya
25 brothers first thing when I get back Tuesday. I'll

1 get -- I'll get Dad on Jeff ASAP. Jeff can't do shit
2 anyway because it's a conflict of interest, but we'll
3 definitely let him know the situation. And if they want
4 to push this situation, then we'll push back harder.
5 Just keep doing the right thing, and I got the rest of
6 it. No problem. No problem, Brother. I got Shepard
7 taken care of. Just give me a call when you -- when you
8 break free, and I'll explain everything. I'll take care
9 of Jonathan and Michael with a phone call. These boys
10 aren't big enough to do shit. I got this; I promise."

11 Q. "Thanks. Call you in a minute. I just landed in
12 LA."

13 A. "Call me tonight or tomorrow, if you want. I
14 talked to Jonathan, and I don't think you'll have any
15 more problems with him."

16 **MR. PENNEBAKER:** Okay. And if we could go to
17 Page 6, please, Ms. Silverberg, and "he ain't worth it."

18 **BY MR. PENNEBAKER:**

19 Q. Go ahead, Special Agent Scales.

20 A. "He ain't worth it. He'll run away; I promise.
21 I'll -- I'll handle it, or I'll have his ass locked up."

22 Q. "Handle my six, Bro. I'm depending on you. I want
23 that shit taken down."

24 A. "Handled it."

25 Q. All right.

1 **MR. PENNEBAKER:** And then Page 7, please, and
2 then zoom in at "I'm trusting you." Thank you.

3 **BY MR. PENNEBAKER:**

4 Q. All right. And so Mr. Young says "I'm trusting
5 you" on October 20, 2014, and then what happens?

6 A. He's -- he wrote Mr. Elston a prescription the next
7 day for hydrocodone.

8 Q. And then two days later, what happens?

9 A. He writes him another prescription for oxycodone.

10 Q. Are those two Schedule II narcotic opioid drugs at
11 the same time?

12 A. They are.

13 **MR. PENNEBAKER:** All right. If you would please
14 go to Page 8, Ms. Silverberg. And there you go. Thank
15 you.

16 **BY MR. PENNEBAKER:**

17 Q. So after getting another prescription -- oh, that's
18 a -- so Jerry Elston, is that Ben Elston's father?

19 A. It is.

20 Q. So let's just start with Mr. Young saying "that's
21 who's causing me all this misery."

22 A. "I know. I don't care about going to jail. I've
23 been in 10 times' worse places. I'd rather see him get
24 humiliated or lose his job. You call it, though. If you
25 want me to beat the fuck out of him, I'll do it. He

1 ain't shit; I promise. I'd hit him once, and it'd be
2 over."

3 Q. "The course of action I'd suggest is a course of
4 action I can't suggest. LOL. I wish he'd lose his
5 fucking job for being such a pussy. I want him
6 humiliated and lose his job. LOL. Sounds awesome."

7 A. "I don't give a fuck, Brother. I can blame it on
8 PTSD."

9 Q. "Ha, ha, ha, ha."

10 **MR. PENNEBAKER:** All right. If we can go to
11 Page 10, please, and zoom in at the three prescriptions
12 on November 21st through 24th, all the way down to
13 November 28th.

14 **BY MR. PENNEBAKER:**

15 Q. So on November 21st to 24th, do we have the
16 defendant writing Ben Elston two prescriptions -- one is
17 those is Jerry in the middle -- but Ben Elston
18 prescriptions for dextroamphetamine and hydrocodone?

19 A. Yes.

20 Q. So starting right under that: "Can you meet me at
21 Walgreens, LOL, at 6:00 p.m.?"

22 A. "Yeah, no problem. Just write me 10-milligram
23 hydros. I don't have enough money for the Percocet.
24 I'll see you at 6:00 at Walgreens, like 40 or 60 of
25 them."

1 Q. And the defendant says: "K."

2 A. "Thanks. In the Tahoe by the front door."

3 Q. "Got to drop my daughter, then I will be there."

4 A. "K."

5 Q. Okay.

6 **MR. PENNEBAKER:** If we can go to Page 15,

7 please, Ms. Silverberg, and zoom in at "hey, son

8 number two."

9 **BY MR. PENNEBAKER:**

10 Q. All right. Go ahead.

11 A. "Hey, son -- hey, son number two, this is Jerry,

12 Ben's dad. Ben is going to come pick up my prescription

13 of hydros around 9:30. Will you give me the 10

14 milligrams instead of the 7.5? I'm going to be gone for

15 a week, and my Crohn's disease has been acting up. If

16 you would leave those up front, he'll come and get them.

17 I've got to be on the road by 10:00, and I'm trying to

18 get packed. Thank you, sir. If you -- if I don't have

19 time to get them filled here, I can get it filled

20 anywhere in Tennessee, can't I?"

21 Q. "Yes."

22 A. "Okay. Thanks. And Ben will be there in about an

23 hour. Sixty will be plenty also. Hey, Brother, I'll be

24 there in 20 minutes, if you -- if you'll stick that up

25 front."

1 Q. "It's already there."

2 And then what happens after that?

3 A. Jerry is -- Jerry Elston is written a prescription
4 for hydrocodone, same day.

5 Q. 10 milligrams, and it looks like another one for
6 oxycodone a few days later. And Ben Elston is written a
7 hydrocodone prescription on the 13th of January?

8 A. Correct.

9 Q. What is the investigative significance of Jerry
10 Elston allegedly texting the defendant from Ben Elston's
11 phone and then claiming, as Jerry, not to be able to get
12 over to the office to pick them up because he's packing?

13 A. It's a red flag because, one, he's not seeing the
14 provider himself, and, two, he's essentially told him
15 what he wants, and he's getting prescribed that.

16 Q. Okay. Is it possible that it could be Ben Elston
17 pretending to be his dad from his own phone?

18 A. It's very possible.

19 **MR. PENNEBAKER:** If we could go, please, to
20 Page 31. And if we could zoom in on the two
21 prescriptions: 3/28 and 4/1. And then just underneath
22 there, "hey, Bro."

23 **BY MR. PENNEBAKER:**

24 Q. All right. Now we're in 2016, correct?

25 A. Yes.

1 Q. Looks like a couple of prescriptions for Mr. Elston
2 on March 28th and April 1st for hydrocodone and
3 dextroamphetamine, correct?

4 A. Correct.

5 Q. All right. So underneath that, Jeff Young, a
6 couple of days after that second prescription, writes:
7 "Hey, Bro, Ethan Owen had the cops come to my house last
8 night during my after party. Tell that fuck to stay away
9 from me and my property."

10 **MR. PENNEBAKER:** And Ms. Silverberg, if we could
11 go to the next page, please, and zoom in on the top.

12 **BY MR. PENNEBAKER:**

13 Q. Go ahead, Special Agent Scales.

14 A. "I handled that around 2:00 p.m. this afternoon.
15 You're late."

16 I don't know if you can call that, like, a
17 rock-and-roll emoji.

18 Q. "Let Ethan know I'll sue his ass for slander if I
19 hear anything like that come out of his fucking mouth
20 ever again. Talk to him today already. Brothers for
21 life."

22 A. "Damn right."

23 **MR. PENNEBAKER:** And if we could go to -- down
24 to the -- closer to the bottom of the page, "your boy
25 Ethan."

1 **BY MR. PENNEBAKER:**

2 Q. Go ahead, Special Agent Scales.

3 A. "Your boy Ethan just called Tommy begging him to
4 ask me not to beat his ass. I told Tommy you were
5 family, and if Ethan ever did some dumb shit like that
6 again, there would be no -- no more warnings. Anyways,
7 he -- anyways, Ethan is very, very sorry and has seen the
8 error of his ways. Hey, when I come by this morning and
9 get tours (phonetic) script, can I get a Rocephin shot to
10 get -- Rocephin shot to see if it'll help my eye? I've
11 got another stye, and I -- and looked like somebody done
12 tore off and whooped my ass, LOL."

13 Q. And then are there more prescriptions or controlled
14 drugs after that?

15 A. There are.

16 Q. Do you have a summary exhibit there that -- where
17 you -- there's -- where you've totaled the amount of
18 controlled drug pills prescribed to Ben and Jerry Elston
19 during the time that Mr. Elston and Mr. Young were having
20 these exchanges?

21 A. Yes.

22 Q. What is the total count of controlled drug pills
23 during that time?

24 A. 10,241.

25 Q. What kinds of drugs are in there?

1 A. As far as just listing them out?

2 Q. Well, just -- I mean, we've talked about
3 hydrocodone, dextroamphetamine.

4 A. Virtussin.

5 Q. Is that a cough syrup with codeine?

6 A. It is.

7 Q. Is it fair to say that there are benzodiazepines,
8 stimulants, opioids?

9 A. Yes.

10 Q. Okay. I think we can move on.

11 Did you also look at a -- or is this a summary
12 exhibit of an individual named -- Jay Green's
13 communications with the defendant and also PMP?

14 (A document was passed to the witness.)

15 A. Yes.

16 **BY MR. PENNEBAKER:**

17 Q. And it's been previously marked as Government's
18 808.

19 **MR. PENNEBAKER:** And Your Honor, I'd offer it
20 into evidence as Exhibit 84.

21 **MS. SILVERBERG:** 84.

22 **MR. PENNEBAKER:** 84.

23 (The above-mentioned item was marked as
24 Exhibit No. 84.)

25 **MR. PENNEBAKER:** And Ms. Silverberg, if we could

1 go to Page 1. Just zoom in at the top.

2 **BY MR. PENNEBAKER:**

3 Q. And it looks like Mr. Green says: "Jeff, I need
4 help. Ron is my cousin. I've been off for a couple
5 months now for an injury. Let me know if you can get me
6 in before Wednesday. I supposed to go back to work.
7 Jackson Clinic won't give me any pain -- anything for
8 pain, and I've spent a shit ton of money there. Need
9 help fast."

10 On that same day or on the next day -- excuse me --
11 you can see above it. On the next day, does Mr. Young
12 prescribe Jay Green hydrocodone with acetaminophen?

13 A. Yes.

14 Q. Okay. By the way, Special Agent Scales, do you
15 know who Jay Green is?

16 A. It was another individual that they spoke of as
17 being one of his bodyguards.

18 Q. Is -- was Jay Green in law enforcement in another
19 town?

20 A. He was.

21 Q. All right.

22 **MR. PENNEBAKER:** So if we could go to Page 5,
23 please, Ms. Silverberg.

24 **MS. SILVERBERG:** Sorry. It's loading.

25 **MR. PENNEBAKER:** If we need to go to the ELMO, I

1 can use that.

2 **MS. SILVERBERG:** Oh, Drew, it's back up.

3 **MR. PENNEBAKER:** It's back up?

4 **MS. SILVERBERG:** Yeah. Sorry. I had to
5 disconnect.

6 **MR. PENNEBAKER:** Thank you.

7 If we could zoom into the -- basically the
8 bottom third.

9 **BY MR. PENNEBAKER:**

10 Q. All right. And so on February 10, 2016, Special
11 Agent Scales, do we see Jeff Young tell Jay Green, in law
12 enforcement, I need you find this fucker?

13 A. Yes.

14 Q. What does Jay Green say?

15 A. "Give me a few."

16 Q. Sorry. Up at the top.

17 A. "What's going on with him?"

18 Q. "He's threatening me."

19 A. "Give me a few."

20 Q. "I want to file charges. He started again on me
21 today, and now he's threatening my office."

22 And then is that a picture of Jeff Young showing
23 Mr. Green what he perceives to be a threatening message?

24 A. Yes.

25 **MR. PENNEBAKER:** And Ms. Silverberg, if we could

1 go to the top of Page 6, please.

2 So I'm sorry. The bottom half of Page 6.

3 **MS. SILVERBERG:** Down here?

4 **MR. PENNEBAKER:** Uh-huh.

5 **BY MR. PENNEBAKER:**

6 Q. So Jeff Young says: "Justice Sample."

7 A. "I can get my dispatcher to get his info, but
8 charges will have to be filed through JPD since that is
9 where the incident took place. Let me read through
10 this."

11 Q. "I need his info, and I will file charges, if
12 you -- I think you can or if you think I can."

13 A. "Yeah, you can. Renee has to know who it is for --
14 who it is for, though. Trying not to tell her because
15 y'all have had words before, LOL. Renee Mullins is my
16 dispatcher, laugh out loud."

17 Q. "Words? Over what? Tell her it's for you,
18 fucker."

19 A. "Not a clue. I did. She saw a post one day and
20 asked if I was friends -- if I was friends" -- I believe
21 that's 'with you' -- "I said, hell, yeah, I am. She
22 looking get up tonight. It's already done."

23 Q. Okay. That's good.

24 **MR. PENNEBAKER:** If we can go, please,

25 Ms. Silverberg, to Page 10. Thank you.

1 **BY MR. PENNEBAKER:**

2 Q. Is this Mr. Green sending the defendant photographs
3 of a residence?

4 A. It is.

5 **MR. PENNEBAKER:** And after that, if we can zoom
6 in. Yeah, that's perfect. Just to everything before
7 video.

8 **MS. SILVERBERG:** Where?

9 **MR. PENNEBAKER:** Go down to the end of "can dig
10 deeper later."

11 **MS. SILVERBERG:** Oh, okay.

12 **BY MR. PENNEBAKER:**

13 Q. All right. So it looks like Mr. Green sends
14 another picture, and what does he say?

15 A. "Last known address. License still shows Milan;
16 Facebook shows Gibson."

17 Q. "Nice."

18 A. "I suggest police report. Or if we have to take
19 care of it, we can. Can dig deeper later, but involves
20 going into -- going to his work, et cetera."

21 **MR. PENNEBAKER:** Ms. Silverberg, do you have a
22 CD of 808? I mean 808-A.

23 And Your Honor, I'd offer into -- this --
24 actually, Ms. Silverberg, can we go ahead and blow up the
25 bottom half or maybe the next -- the next entry.

1 **MS. SILVERBERG:** Just a sec. This one?

2 **MR. PENNEBAKER:** Uh-huh.

3 **BY MR. PENNEBAKER:**

4 Q. And so that next entry after "can dig deeper
5 later," it says "Jay Green to Jeff Young."

6 You can see that there's a blank spot in there, and
7 that's a description, right, of what we're about to see
8 on what's been previously identified as 808-A?

9 **MR. PENNEBAKER:** Your Honor, I'd offer what's
10 been previously marked as 808-A into evidence as
11 Exhibit 85.

12 **THE COURT:** Denied at this point. The witness
13 hadn't identified it.

14 **BY MR. PENNEBAKER:**

15 Q. Special Agent Scales, I'm not sure if you have seen
16 that video? Is that correct, that -- have you seen that
17 video at 808-A?

18 A. I have not.

19 Q. Okay. Just trying to think if there's another way
20 that -- I guess we'll --

21 **MR. PENNEBAKER:** I'll withdraw that offer, Your
22 Honor.

23 **BY MR. PENNEBAKER:**

24 Q. And just one additional question about this summary
25 exhibit: Did Mr. Young prescribe Mr. Green opioids?

1 A. Yes.

2 Q. And did he continue to prescribe Mr. Young opioids
3 after this exchange about locating this individual and
4 taking care of this problem?

5 A. Yes.

6 Q. All right. Okay. Have you reviewed a summary of
7 messages and CSMD data for an individual named Will
8 Stone?

9 A. Yes.

10 Q. And is that what's previously been marked as
11 Government's 822?

12 (A document was passed to the witness.)

13 A. Yes.

14 **MR. PENNEBAKER:** All right. Your Honor, the
15 government would offer this exhibit, which is a summary
16 of Will Stone's CSMD, SMS, and MMS as Exhibit 75.

17 **THE COURT:** 85.

18 **MR. PENNEBAKER:** 85, excuse me.

19 **THE COURT:** We'll receive it.

20 (The above-mentioned item was marked as
21 Exhibit No. 85.)

22 **MR. PENNEBAKER:** Thank you, Your Honor.

23 All right. And Ms. Silverberg, if we can go to
24 the July 2015 prescriptions and the couple entries
25 underneath those.

1 **MS. SILVERBERG:** Oh, sorry. Five.

2 **BY MR. PENNEBAKER:**

3 Q. So in July 2015, do we see this individual, William
4 Stone, get three prescriptions for hydrocodone from the
5 defendant?

6 A. Yes.

7 Q. And if you look on the left-hand corner, what is
8 Mr. Stone identified as in the defendant's phone?

9 A. Can you repeat that?

10 Q. On the left-hand side of the screen, what is
11 Mr. Stone -- how is Mr. Stone identified in the
12 defendant's phone?

13 A. "Will Stone sheriff department."

14 Q. Okay. So what does Deputy Stone say there on
15 7/22/2015?

16 A. "You are the man. I am looking into this bill for
17 you. I will get with you in a day or so."

18 **MR. PENNEBAKER:** And if we could go to Page 2 of
19 that exhibit, please, Ms. Silverberg, and zoom in to
20 "need to call in a favor."

21 **BY MR. PENNEBAKER:**

22 Q. Jeff Young, there, says: "Need to call in a favor,
23 Brother. Can you contact me when you get time?"

24 That's an 7/21/2015, so July 21, 2015.

25 A. Correct.

1 Q. And then after that, Jeff Young writes a
2 prescription for phentermine, and Ms. -- yep, thank you.
3 If we could blow that up.

4 So looks like from August to December, Deputy Stone
5 gets phentermine, hydrocodone, AndroGel, hydrocodone, and
6 Belviq. So is it fair to say that the defendant
7 continues to prescribe for Deputy Stone for some time
8 after that?

9 A. Correct.

10 Q. And these are controlled drugs that are being
11 prescribed?

12 A. Correct.

13 Q. If we could, please, now go to -- have you seen a
14 summary exhibit 816-A and -B involving an individual
15 named Lydia Spencer?

16 A. Yes.

17 **THE COURT:** What was that first name?

18 **MR. PENNEBAKER:** Lydia, Your Honor.

19 So here is one, and here's the other. You're
20 looking at A, and this is B.

21 (Documents were passed to the witness.)

22 **BY MR. PENNEBAKER:**

23 Q. Are those the exhibits you recognize?

24 A. Yes.

25 Q. Thank you.

1 **MR. PENNEBAKER:** And I can actually just enter
2 this or offer this as a single exhibit. It is a summary
3 exhibit of communications with the defendant. Actually,
4 the -- to be -- to be precise, the exhibit is -- the
5 first page is communications between Lydia Spencer and
6 the office manager at Preventagenix, Kristie Gutgsell.
7 The second page is additional text messages between those
8 two individuals and then a group text involving
9 individuals in the Preventagenix clinic. And then the
10 third and fourth page are CSMD data for Lydia Spencer,
11 Your Honor. And I'd offer these as government's -- or as
12 Exhibit 86.

13 **THE COURT:** Okay. We'll receive them. 86.

14 **MR. PENNEBAKER:** Thank you, Your Honor.

15 (The above-mentioned items were marked as
16 Exhibit No. 86.)

17 **MR. PENNEBAKER:** All right. If we could pull up
18 that first page.

19 Oh, I better use the ELMO.

20 **MS. SILVERBERG:** Sorry.

21 **MR. PENNEBAKER:** That's okay. I can -- I'll
22 just do this one like this.

23 **BY MR. PENNEBAKER:**

24 Q. Okay. So what are we looking at here, Special
25 Agent Scales?

1 A. Text -- a screenshot of a message from Lydia
2 Spencer and Mr. Young.

3 Q. Or this -- I think this is actually Kristie
4 Gutgsell --

5 A. I'm sorry.

6 Q. -- the office manager we heard from earlier.
7 Does that sound, right?

8 A. Yes. Yes.

9 Q. Okay. So does Kristie Gutgsell say: "Any chance
10 you can get your husband to check and see if Jeff has a
11 warrant in Madison County that got transferred from
12 Shelby County? Rumor is he does, sad face."

13 And Ms. Spencer says?

14 A. "Yes, ma'am."

15 Q. And then Ms. Gutgsell says: "Thanks so much."

16 On the second page, we have Ms. Spencer in that
17 first entry. Would you read that, please?

18 A. "It is not entered into the NCIC, National Crime
19 Information Center, as of now. So if somebody were to
20 run him or his tag in Jackson, it would not show up that
21 he had a warrant. Brian said he will check again in the
22 morning when he gets to work and see if it has been
23 entered. He advised that he can go turn himself in and
24 get it taken care of before somebody like Briley, for
25 instance, around here gets wind of it, and it hits the

1 news and runs rampant and spreads like wildfire. If
2 Brian sees it come across NCIC, he will let him know
3 ASAP."

4 Q. And is Brian in law enforcement?

5 A. Yes.

6 Q. Is it appropriate for Brian to be checking NCIC to
7 see if the defendant has warrants to warn the defendant?

8 A. No, it is not.

9 Q. Okay. And this is a -- we're now on Page 3. Is
10 this Ms. Spencer's PMP data?

11 A. It is.

12 Q. And are those all prescriptions written by the
13 defendant?

14 A. Yes.

15 Q. For control drugs, including Schedule II
16 stimulants?

17 A. Correct.

18 Q. Benzodiazepines?

19 A. Yes.

20 Q. And a sleep aid?

21 A. Yes.

22 Q. And after this information is conveyed, that orange
23 highlighted message, is that a group chat involving the
24 defendant and other people at the Preventagenix clinic?

25 A. It is.

1 Q. And it's a message from the office manager, Kristie
2 Gutgsell, to the rest of these employees, correct?

3 A. Correct.

4 Q. And what does she say?

5 A. "Next time Lydia Spencer wants a hydration, it's no
6 charge. Please put it -- put in the computer, too."

7 Q. All right. Just a couple more.

8 Have you looked -- have you reviewed messages and
9 data related to an individual named Keith Moffit?

10 A. Yes.

11 Q. And is there -- is this a summary exhibit of
12 that -- those messages and data previously marked as
13 Government's 811?

14 A. Yes.

15 Q. All right.

16 **MR. PENNEBAKER:** Your Honor, I'd offer this into
17 evidence as Exhibit 87.

18 **THE COURT:** 87.

19 (The above-mentioned item was marked as
20 Exhibit No. 87.)

21 **MR. PENNEBAKER:** And Ms. Silverberg, if -- when
22 you get there, if you could just zoom into the top of
23 Page 1. There you go. Perfect.

24 **BY MR. PENNEBAKER:**

25 Q. Are these prescriptions for Keith Moffit spanning

1 April 2015 to October of 2015?

2 A. Correct.

3 Q. What is the first entry there?

4 A. A hydrocodone.

5 Q. And that's a 7.5, 325, which is 7.5 milligrams of
6 hydrocodone and 325 milligrams of --

7 A. Tylenol.

8 Q. Right?

9 A. Yes.

10 Q. And 120 count.

11 There's also an alprazolam 1-milligram
12 prescription, correct?

13 A. Yes.

14 Q. The next month, does the defendant up the strength
15 of the drug both in terms of the milligrams and in terms
16 of the drug itself to oxycodone?

17 A. He does.

18 Q. And now we're taking the acetaminophen out of the
19 picture, correct?

20 A. Yes.

21 Q. The following month, in June, do we up the
22 oxycodone again?

23 A. We do.

24 Q. To 20 milligrams this time, correct?

25 A. Yes, sir.

1 Q. And the alprazolam to 2 milligrams?

2 A. Yes, sir.

3 Q. So then we pretty consistently stay at that duo --

4 A. Yes.

5 Q. -- correct?

6 **MR. PENNEBAKER:** If we could go to the middle of
7 the same page, Ms. Silverberg.

8 **BY MR. PENNEBAKER:**

9 Q. All right. What does Keith Moffit say to the
10 defendant here on November 9th?

11 A. "You name a time you free, and me -- me, you, and
12 our wives can step out, LOL. What's up, boss? I'm up
13 front trying to get my VIP on. Come help me."

14 Q. All right. And then below that, do you see on
15 11/12/2015 we get a oxycodone 30-milligram table and an
16 alprazolam 2-milligram tablet, 120 of each?

17 A. Yes.

18 Q. And oxycodone, 30 milligram. He's gone up again,
19 right?

20 A. Correct.

21 Q. All right.

22 **MR. PENNEBAKER:** Ms. Silverberg, if we could go
23 to the bottom of the page.

24 **BY MR. PENNEBAKER:**

25 Q. All right. What does he -- what does Mr. Moffit

1 say at the -- in that first entry on December 7th?

2 A. "Hey, Bud, I'm VIP down there and -- and
3 appointment is Friday. But Boss wants me -- wants to
4 hit -- Boss wants to head back to Nashville before then.
5 Can you get my meds filled today and no drug test, Boss?"

6 Q. "How early is it? That's a state-law thing."

7 A. "Four days. Or can you let me know if I got to
8 take one? What's the word, Boss? Can you slip me past
9 DT" -- abbreviation for 'drug test' -- "one more month?
10 Help a player out."

11 Q. Okay. So here we've got an indication that it's
12 early and that we need to slip past the drug test, right?

13 A. Correct.

14 Q. And on that same date, what do we see happen?

15 A. He's prescribed oxycodone and alprazolam.

16 Q. What is the law enforcement or the investigative
17 significance of allowing someone to slip past a drug
18 test?

19 A. He's not testing him to see if he's even taking his
20 medications.

21 Q. Or maybe if he's taking something else, right?

22 A. Correct.

23 **MR. PENNEBAKER:** If we could go to Page 4,
24 please, Ms. Silverberg, and zoom in at the top, gray to
25 gray. Thank you.

1 **BY MR. PENNEBAKER:**

2 Q. So we get a oxycodone 30-milligram prescription on
3 September 7, 2016, correct?

4 A. Correct.

5 Q. And then about a month later, what happens?

6 A. He receives another prescription for oxycodone.

7 Q. What is the -- what does he text the defendant
8 before that? Or, well, send him a Facebook message, I
9 guess.

10 A. "What's up, Buddy? Hey, need you to be me a favor
11 between me and you, Boss Man. Me and my ol' lady will be
12 coming with Chris and Crystal to witness the -- to
13 witness the marriage, and I was going to see if you would
14 write my ol' lady one script off the charts, Bro. 'Cause
15 her back and shit is fucked up bad, and all the docs she
16 has tried won't write her xans or oxies. She was there
17 with you and got discharged for failing a drug test when
18 she brought piss and trying to cover up weed smoke. If
19 you could write her them this one time, it would be
20 greatly" -- I'm assuming that's "appreciated."

21 Q. And thank you, Special Agent Scales. I just wanted
22 to clarify something because I think you might have
23 misread in the middle there.

24 I think you said "won't write her xans or oxies."

25 I think it says "xans and oxies."

1 A. Xans and oxies.

2 Q. But after this "can you write my wife a
3 prescription off the books," does the defendant continue
4 to prescribe to the individual making that request?

5 A. Yes.

6 Q. All right. Did you review messages and PMP data
7 for an individual named Bartlett?

8 A. Yes.

9 Q. And is that Scott Bartlett?

10 A. It is.

11 Q. And I'm going to hand you what has been previously
12 marked as Government's -- well, what's been previously
13 marked as Government's 821-A.

14 (A document was passed to the witness.)

15 **BY MR. PENNEBAKER:**

16 Q. And do you recognize that as a text exchange -- as
17 the text exchange between the defendant and Mr. Bartlett?

18 A. Yes.

19 **MR. PENNEBAKER:** Your Honor, I'd offer
20 exhibit -- I'd offer this text exchange between Scott
21 Bartlett and the defendant as Exhibit 88.

22 (The above-mentioned item was marked as
23 Exhibit No. 88.)

24 **MR. PENNEBAKER:** Ms. Silverberg, if we could
25 please go to Page 4, top half.

1 **BY MR. PENNEBAKER:**

2 Q. Special Agent Scales, would you read from "how do I
3 handle"?

4 A. "How do I handle getting the Adderall refilled?"

5 Q. "Can you come by my office and get a prescription?"

6 A. "Well, I live in Memphis. I suppose I can make the
7 trek."

8 Q. "I really need to establish a chart on you. We'll
9 bring you through the VIP entrance and out."

10 **MR. PENNEBAKER:** And Ms. Silverberg, before
11 we -- before we move on --

12 **BY MR. PENNEBAKER:**

13 Q. Special Agent Scales, have you -- in reviewing this
14 messaging context, is it clear that the defendant had
15 previously written a prescription for Adderall to
16 Mr. Bartlett?

17 A. Yes.

18 **MR. PENNEBAKER:** Ms. Silverberg, if we could go
19 down to the bottom half.

20 **BY MR. PENNEBAKER:**

21 Q. So what does Mr. Bartlett say?

22 A. "Okay. Bud, my car is in Louisville, so I'm going
23 to have to rent a car for a while. I'm home anyway.
24 I'll come up next week."

25 Q. "That's the way the Grizz executives do it and my

1 other high-end clients. We have a discreetness policy."

2 Special Agent Scales, Adderall is a Schedule II
3 controlled drug, correct?

4 A. Correct.

5 **MR. PENNEBAKER:** If we could go to Page 5 and
6 zoom into the top half.

7 **BY MR. PENNEBAKER:**

8 Q. What does Mr. Bartlett say about the discreetness
9 policy?

10 A. "I can dig that."

11 Q. "Then I can postdate you three months' worth."

12 A. "I can certainly dig that, too."

13 Q. All right. Have you reviewed messages and PMP data
14 for an individual named Doug Keeton?

15 A. Yes.

16 Q. And is that what I'm handing you that's been
17 previously marked as Government's 819?

18 (A document was passed to the witness.)

19 A. Yes.

20 **MR. PENNEBAKER:** Your Honor, offer -- I offer
21 into evidence Exhibit 81. Oh, 89?

22 **THE COURT:** 89.

23 **MR. PENNEBAKER:** 89.

24 (The above-mentioned item was marked as
25 Exhibit No. 89.)

1 **MR. PENNEBAKER:** Wow, I was off.

2 **THE COURT:** How many more of these do you have?

3 **MR. PENNEBAKER:** Just a couple, Your Honor.

4 **BY MR. PENNEBAKER:**

5 Q. So Special Agent Scales, is Mr. Keeton the
6 individual who owns Slide & Ride where the defendant
7 liked to party?

8 A. Yes.

9 **MR. PENNEBAKER:** If we could go to Page 1,
10 please, Ms. Silverberg.

11 **BY MR. PENNEBAKER:**

12 Q. Are these prescriptions for Xanax that the
13 defendant is prescribing Mr. Keeton?

14 A. Correct.

15 **MR. PENNEBAKER:** And if he could please go to
16 Page 2.

17 **BY MR. PENNEBAKER:**

18 Q. All right. If you would read for Mr. Keeton.

19 A. "Hey, this is Doug Keeton. Sorry about my dumb-ass
20 wife -- I mean dumb-ass ex-wife acting like she did in my
21 club. But don't worry. She is banned forever. But next
22 time y'all decide to come back, just text me, and I will
23 save the VIP booth for y'all and give y'all your own
24 server so you don't have to wait on a drink. Plus,
25 always text me so you don't have to wait in line outside,

1 and maybe one night we can get my limo out, and I'll
2 carry y'all to Martin, to my club there. That way, we
3 can party at both booths -- both clubs. But I apologize
4 for last night. And I chew my security guards' ass out
5 and told them when you're in -- when you're in there,
6 nobody gets around y'all unless y'all want them to."

7 Q. "Thanks, Bro. She and my ex could be twins."

8 **MR. PENNEBAKER:** If we could go to Page 7,
9 please, Ms. Silverberg, and zoom in "you getting out
10 tonight."

11 **BY MR. PENNEBAKER:**

12 Q. All right. Special Agent Scales, if you want to
13 start at "you getting out tonight?"

14 A. "You getting out tonight?"

15 Q. "Yes, sir. I'll be at Slide & Ride about 11:30."

16 A. "All right. I'll try to be there by then at
17 red" --

18 Q. Go ahead.

19 A. "All right. I'll try to be there by then. At
20 Redbone's now."

21 Q. And I actually started you at the wrong "you
22 getting out tonight." The one I was asking you -- trying
23 to ask you to read, inartfully, was the one on the 9th.

24 So this is June 9, 2016, right?

25 A. "You getting out tonight?"

1 Q. "Not tonight."

2 A. "Damn, I'm ready to turn it up. If you change your
3 mind, holler."

4 Q. "Sorry. Have weight loss clinic tonight and my son
5 after that. Rain check."

6 A. "Got you. I'll be ready for a lake trip soon."

7 Q. Okay. And then do we add a new type of controlled
8 drug after that conversation: dextroamphetamine?

9 A. We do.

10 Q. So that's a couple days later.

11 Okay. And I'm going to -- have you reviewed -- did
12 you review data and messages involving an individual
13 named Chad Newsom?

14 A. Yes.

15 Q. Okay. And I'm going to hand you what's been
16 previously marked as Government's 818.

17 (A document was passed to the witness.)

18 **BY MR. PENNEBAKER:**

19 Q. Is this a summary of a PMP, CSMD, and message
20 between the defendant and Chad Newsom?

21 A. It is.

22 **MR. PENNEBAKER:** Government would offer this as
23 Exhibit 90, Your Honor.

24 **THE COURT:** Okay. We'll receive it.

25 (The above-mentioned item was marked as

1 Exhibit No. 90.)

2 **MR. PENNEBAKER:** And Ms. Silverberg, if we could
3 go ahead and go to Page 1.

4 **MS. SILVERBERG:** This way?

5 **MR. PENNEBAKER:** Sorry. That's the next one I'm
6 was going to introduce.

7 So it looks like, actually, I misspoke. That's
8 not Government's 818. That's Government's 818-B, which
9 is still Exhibit 90.

10 **BY MR. PENNEBAKER:**

11 Q. What types of controlled medications is the
12 defendant prescribing Mr. Newsom from around November
13 2014 to March 2015?

14 A. Tramadol, carisoprodol, and hydrocodone and
15 dextroamp.

16 Q. So the hydrocodone stronger than tramadol?

17 A. Yes.

18 Q. All right. And so we're on hydrocodone here in
19 April -- in March 2015; fair to say?

20 A. Yes.

21 **MR. PENNEBAKER:** If we could go to Page 4 at the
22 bottom. Blow up "oh, wow."

23 **BY MR. PENNEBAKER:**

24 Q. So go ahead and, Special Agent Scales, read for
25 Mr. Newsom.

1 A. "Oh, wow, laugh out loud. Just wanted to let you
2 know that Xanax seems to be helping out -- helping a lot.
3 I wanted to talk to you sometime about my back pain meds.
4 I've been reading about them, and I had a couple
5 questions whenever you have the time."

6 Q. So we've also added Xanax by this time?

7 A. Yes.

8 **MR. PENNEBAKER:** If we could go to the top of
9 the next page to "I need to stay."

10 A. "I need to" --

11 **BY MR. PENNEBAKER:**

12 Q. Go ahead.

13 A. "I need to stay off the enter -- internet, LOL, but
14 all of the Tylenol is making a little nervous. I've been
15 reading about a couple other options without all the
16 Tylenol. Going to see what you thought of them."

17 **MR. PENNEBAKER:** Okay. And if we could go to
18 Page 6, about the fourth line. There you go.

19 **BY MR. PENNEBAKER:**

20 Q. And can you start at "have"?

21 A. "Have you heard of something like roxicolin
22 (phonetic) or something? The internet said it's a
23 similar pain med with no Tylenol?"

24 Q. "OxyContin?"

25 A. "I don't know. I thought it started with an R. It

1 said they are smaller and last longer."

2 Q. "We have options. 'Roxy' is the street name."

3 A. "LOL, that's what I get for doing medical research
4 online." Laugh emojis.

5 Q. Okay. So is roxy stronger than hydrocodone?

6 A. It is.

7 Q. What's the investigative significance of referring
8 to the drug, in this context, as roxy?

9 A. Typically a patient's not going to refer to a pain
10 med by a street name.

11 Q. If it's for legitimate purposes?

12 A. Correct.

13 Q. All right. So this is on April 20, correct?

14 A. Yes.

15 **MR. PENNEBAKER:** And if we could go to Page 7,
16 the six lines at the bottom.

17 **BY MR. PENNEBAKER:**

18 Q. And if you want to start at the top of that
19 cull-out, Special Agent Scales.

20 A. "Hey, Brother, I'm out running around. If you have
21 a minute, I'll run by."

22 Q. "I'm in a meeting until 1:30."

23 A. "Word. I'll holler back in a bit. Got a little
24 something for you for the holiday."

25 Q. Now, hang on just a minute. Is April the 20th or

1 4/20, is that -- is that a holiday?

2 A. They -- 4/20, it can be known as, like, a
3 cannabis -- cannabis celebration day.

4 Q. Okay. So it's kind of an unofficial holiday?

5 A. Right.

6 Q. Okay. So Mr. Young says: "Awesome. Happy
7 holiday."

8 A. "F yeah, Buddy. I just pulled up at the clinic.
9 No rush, of course. I just have time to kill. By the
10 way, go easy with that shatter, very potent, best I've
11 had."

12 Q. What is shatter?

13 A. It is a form of cannabis.

14 Q. Is it a concentrated form of cannabis?

15 A. It is.

16 **MR. PENNEBAKER:** All right. So if we could go
17 to Page 9, please, Ms. Silverberg, and if we could cull
18 out "I consider you family." All the way down to the
19 "oxycodone."

20 **BY MR. PENNEBAKER:**

21 Q. So all of this that's going on, it's still April
22 20th, correct?

23 A. Correct.

24 Q. Same day that Mr. Newsom says "I been looking on
25 the internet, and there's this thing called roxy"?

1 A. Correct.

2 Q. Same day that Mr. Newsom gives Mr. Young the
3 shatter?

4 A. Correct.

5 Q. So then Jeff Young says here: "I consider you
6 family, fucker."

7 A. "Same here, man, for reals."

8 Q. "For reals."

9 And then Mr. Young prescribes what?

10 A. Oxycodone.

11 Q. Is that the very drug that Mr. Newsom was asking
12 for by name based on internet research?

13 A. It is.

14 Q. And have you reviewed the patient file that was
15 taken from Preventagenix for Mr. Newsom?

16 A. I have.

17 Q. And have you compared that patient file to the PMP?

18 A. Yes.

19 Q. Or the CSMD data?

20 A. Yes.

21 Q. Have you -- is this a summary exhibit of that
22 comparison?

23 A. It is.

24 **MR. PENNEBAKER:** And it's previously marked as
25 818-A. I'll offer it as Exhibit 91.

1 **THE COURT:** Say again, what it's a comparison
2 of.

3 **MR. PENNEBAKER:** The patient chart for
4 Mr. Newsom and the CSMD data for Mr. Newsom.

5 **THE COURT:** Be 91.

6 (The above-mentioned item was marked as
7 Exhibit No. 91.)

8 **MR. PENNEBAKER:** And Ms. Silverberg, if we could
9 go ahead and put that up.

10 **BY MR. PENNEBAKER:**

11 Q. Can you let the jury know what's happening in this
12 summary exhibit?

13 A. So similar to how we put together the text messages
14 with the PMP, this is the patient file along with the
15 PMP. And the ones in yellow have -- the ones in yellow
16 don't have a doctors visit with it.

17 Q. Don't have a corresponding office with it on the
18 day?

19 A. Correct.

20 Q. And so we were just at April 20, 2015, right?

21 A. Yes.

22 Q. So what do we see there?

23 A. We see that he got prescriptions for hydrocodone on
24 May the 8th and May the 11th and as well as may -- April
25 20th.

1 Q. So he got hydrocodone on the 8th; he got, looks
2 like, dextroamphetamine on the 11th, and oxycodone on the
3 20th, which is the one that we were just talking about,
4 correct?

5 A. Correct.

6 **MR. PENNEBAKER:** And if you could zoom out,
7 please, Ms. Silverberg, and cull out the three entries in
8 white before that one that we just looked at.

9 **BY MR. PENNEBAKER:**

10 Q. So looks like five days later, Mr. Newsom had
11 gotten a couple of other -- or excuse me. Five days
12 earlier, on the 15th, Mr. Newsom had gotten a couple of
13 prescriptions: one for dextroamphetamine and one for
14 1-milligram Xanax; is that right?

15 A. Correct.

16 Q. And so we do have an office visit on that date, the
17 15th. Looks like a reason given for the visit is tension
18 in pelvic floor, right?

19 A. Correct.

20 Q. And then what's that "VIP" signify over there on
21 the right?

22 A. He's part of his VIP program.

23 Q. And so does that mean that there wasn't any money
24 exchanged for the office visit?

25 A. Correct.

1 **MR. PENNEBAKER:** If we could, please,
2 Ms. Silverberg -- let's see here.

3 If we could go back to the summary exhibit
4 involving Ms. Story. And I forget. Which one is that?

5 All right. If we could go to Government's 76,
6 which is formerly 807.

7 **MS. SILVERBERG:** I think it's 76.

8 **MR. PENNEBAKER:** Did I say 806?

9 **MS. SILVERBERG:** Oh, I thought you said --

10 **MR. PENNEBAKER:** Yeah, yeah. If we could go to
11 76 at Page 8, I think. Yep. And if we could zoom in,
12 starting at "what did I write you?"

13 **BY MR. PENNEBAKER:**

14 Q. All right. So in this exhibit involving Cyndal
15 Story, Jeff Young says, on July 18, 2016: "What did I
16 write you?"

17 And does Ms. Story say?

18 A. "You wrote me 5-milligram hydros," sad face.

19 Q. And then what does she say?

20 A. "Seriously. I can't take something in between
21 taking those."

22 Q. And then Mr. Young says: "How many did I write?
23 And also, you have to be seen in the office for a
24 Schedule II narcotic. It's bullshit, but it's the law,"
25 right?

1 A. Correct.

2 MR. PENNEBAKER: So could we go back to -- is
3 it 91?

4 So that was in July of 2016. If we go to the
5 second page of this exhibit, please, Ms. Silverberg. And
6 if we can zoom into everything. There you go. Perfect.

7 MS. SILVERBERG: Just this one?

8 MR. PENNEBAKER: All -- go all the way down.

9 BY MR. PENNEBAKER:

10 Q. How many prescriptions for hydrocodone -- which is
11 a Schedule II narcotic, correct?

12 A. Correct.

13 Q. -- happen after that text message where Mr. Young
14 acknowledges that it's the law that you have to have an
15 office visit for one of those drugs?

16 A. Three.

17 Q. By no means the only ones in this exhibit, correct?

18 A. Correct.

19 Q. Okay.

20 MR. PENNEBAKER: Now, if we could go back to
21 Exhibit 90.

22 MS. SILVERBERG: This one?

23 MR. PENNEBAKER: Yes. And if we could go to
24 Page 9, please, first four lines after the oxycodone
25 script.

1 **BY MR. PENNEBAKER:**

2 Q. Would you start reading at "Brie's little sister"?

3 A. "Brie's little sister killed herself tonight. Can
4 pregnant people have Xanax? She is tore up, dude."

5 Q. "Oh, my God. How far along is she?"

6 A. "Yeah, we are in shock. 19 weeks."

7 Q. "No. It would harm the baby."

8 **MR. PENNEBAKER:** And if we could go, please,
9 Ms. Silverberg, to -- yes -- to the tenth page, top four
10 lines.

11 **BY MR. PENNEBAKER:**

12 Q. Go ahead, Special Agent Scales.

13 A. "It's fucking crazy, dude. Thank you, though."

14 Q. "She can take BuSpar. Stop by tomorrow and pick up
15 a script. She's going to need it over the next few
16 weeks."

17 **MR. PENNEBAKER:** And then if we could go down
18 to -- yep, right there in the middle.

19 **BY MR. PENNEBAKER:**

20 Q. What does he say?

21 A. "Cool. We will come by tomorrow. I just don't
22 want her all stressed during the pregnancy."

23 Q. "Exactly. That's worse than her taking something.
24 But Xanax is a definite no."

25 So will you tell me the date right then, Special

1 Agent Scales?

2 A. 4/23/2015.

3 Q. April 23, 2015?

4 A. Correct.

5 Q. And do you remember earlier; we heard testimony
6 from a woman named Hope Rogers, right?

7 A. Correct.

8 Q. And did you also look at a summary, or did you also
9 review data, Facebook messages, and CSMD data for
10 Ms. Rogers?

11 A. I did.

12 **THE COURT:** Hold on. We're going to go ahead
13 and take a break right now. Okay. We'll pick it up
14 after our break.

15 **MR. PENNEBAKER:** Thank you, Your Honor.

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1 **THE COURT:** All right. Take a break, ladies and
2 gentlemen. Leave your notebooks in the chair, and don't
3 discuss. 15, 20 minutes, we'll get back to you. We'll
4 go ahead and excuse you to the jury room.

5 (Jury out at 10:34 a.m.)

6 **THE COURT:** You can step down. Don't discuss,
7 your testimony with anyone.

8 **THE WITNESS:** Yes, sir.

9 (The witness complies with the request.)

10 **THE COURT:** Mr. Pennebaker, I've asked you a
11 couple of times; you give me the same answer every time.
12 How many more?

13 **MR. PENNEBAKER:** This is the last new exhibit
14 that I'm going to introduce. I would imagine I have
15 maybe five minutes left with this witness.

16 **THE COURT:** All right. I appreciate it.

17 **MR. PENNEBAKER:** Thank you.

18 **THE COURT:** I've been really patient about all
19 the minute details that you're going through. Sometimes
20 it's just good lawyering, during closing arguments, to
21 deal with all these details. But I've been patient.
22 We've gone through 20 of these now.

23 **MR. PENNEBAKER:** Yes, Your Honor.

24 **THE COURT:** All right. We'll be in recess.

25 (Recess at 10:35 a.m. until 11:13 a.m.)

1 **THE COURT:** Okay. Just one brief thing before
2 we bring the jury in: Government, the indication was
3 that there was one additional witness after Special Agent
4 Scales. Is that still the case?

5 **MS. PAYERLE:** Yes, Your Honor.

6 **THE COURT:** Okay. I just need to start making
7 inquiry of the defense, whether there's going to be
8 witnesses and then also your client's decision, of
9 course.

10 **MR. FERGUSON:** We were hoping that the next
11 witness will take us through the lunch break. We'll
12 spend that time --

13 **THE COURT:** Probably will.

14 **MR. FERGUSON:** I would think so.

15 And after lunch, we would be able to answer that
16 probably a little better for you, Your Honor. I don't
17 expect there to be much, if any, evidence on our side.

18 **THE COURT:** Okay. That's --

19 **MR. FERGUSON:** But I do -- I do need that time
20 to spend time with my client for lunch.

21 **THE COURT:** I know he has to make a decision,
22 and you need time to talk with him about it.

23 **MR. FERGUSON:** Right.

24 **THE COURT:** But what about other witnesses?

25 **MR. FERGUSON:** I don't -- no, there won't be

1 any.

2 **THE COURT:** Okay. Appreciate it. That's what I
3 need to know.

4 All right. And then after we finish with
5 Special Agent Scales, I'd like to go ahead and deal with
6 the stipulation, get it marked into evidence --

7 **MS. PAYERLE:** Thank you, Your Honor.

8 **THE COURT:** -- before we take the last witness.

9 **MS. PAYERLE:** And maybe we play the video at
10 that time as well?

11 **THE COURT:** Yes.

12 **MS. PAYERLE:** Okay. Thank you.

13 **THE COURT:** Go ahead and deal with that.

14 **MS. PAYERLE:** Thank you, sir.

15 **THE COURT:** All right. Bring them in, please.

16 (Jury in at 11:14 a.m.)

17 **THE COURT:** You may be seated.

18 (The witness complies with the request.)

19 **THE COURT:** All right. Folks, I think we're
20 ready for the final push before our lunch break.

21 I'll just turn it back over to Mr. Pennebaker.
22 If you would, please, you may proceed.

23 **MR. PENNEBAKER:** Thank you, Judge.

24 Mr. Herrin, if I could just get the ELMO.
25

1 **BY MR. PENNEBAKER:**

2 Q. Special Agent Scales, I think we were just talking
3 about the messages and data for Hope Rogers we heard
4 testify earlier. Is what's previously been marked as
5 Government's 814 the complete, unredacted version of that
6 summary?

7 (A document was passed to the witness.)

8 A. Yes.

9 **BY MR. PENNEBAKER:**

10 Q. And we saw three pages of it introduced earlier,
11 but this is the whole exhibit?

12 A. Correct.

13 **MR. PENNEBAKER:** Your Honor, the government
14 offers the Hope Rogers summary as Exhibit 92.

15 **THE COURT:** All right. Go ahead and receive it.

16 (The above-mentioned item was marked as
17 Exhibit No. 92.)

18 **BY MR. PENNEBAKER:**

19 Q. Special Agent Scales, you may recall seeing
20 Exhibit 24 earlier, correct?

21 A. Yes, sir.

22 Q. And would you please read the last entry that Hope
23 Rogers writes to Jeff Young?

24 A. "I'm so excited for you to meet A. Here are a few
25 pictures. When we get out and head home, if it's a day

1 you're at the office, I'll bring her by to meet you.

2 Thank you for taking care of me and helping me stay
3 healthy during my pregnancy. You're the best, Jeff."

4 Q. What's the date?

5 A. [REDACTED], 2015.

6 Q. So have you reviewed the PMP data for Ms. Rogers
7 involving Jeff Young's prescribing while she was
8 pregnant?

9 A. Yes.

10 Q. How many prescriptions for Xanax were there between
11 when the defendant told Mr. Newsom that's a definite no
12 for pregnant woman and this date?

13 A. Four.

14 Q. How many total Xanax pills did the defendant
15 prescribe Hope Rogers between the date of that warning to
16 Mr. Newsom and [REDACTED] 2015?

17 A. 360.

18 **MR. PENNEBAKER:** Pass the witness, Your Honor.

19 **THE COURT:** All right. Thank you.

20 And Mr. Damas?

21 **MR. DAMAS:** Thank you, Your Honor.

22 **THE COURT:** You may proceed.

23 **CROSS-EXAMINATION**

24 **BY MR. DAMAS:**

25 Q. Good morning, Special Agent Scales.

1 A. Good morning.

2 Q. It's been a long morning.

3 A. It has.

4 Q. So you've testified you were the one that created
5 all of these summaries, these exhibit summaries, right?

6 A. I didn't testify to creating them.

7 Q. You reviewed the informations that led to the
8 creation of the documents, right?

9 A. Correct.

10 Q. So you reviewed the text messages, the PMP data,
11 and Facebook message and -- you know.

12 A. Correct.

13 Q. Depending on each exhibit, there's a little bit
14 variance between each one, right?

15 A. What do you mean?

16 Q. Sometimes there's Facebook messages; sometimes it's
17 texts?

18 A. Right. They're in order of -- they might have been
19 going back and forth between text message and Facebook,
20 and you just added them in.

21 Q. And you cross-referenced all of that information
22 and kind of made it into timeline that's easy to read?

23 A. We, yes.

24 Q. Because otherwise, cell phone data information is,
25 like, incredibly difficult and jumbled, and it's all over

1 the place?

2 A. Correct.

3 Q. Correct.

4 Okay. And part of the -- one of the things you
5 were cross-referencing was the PMP data for the specific
6 patients that we've been talking about all morning?

7 A. Correct.

8 Q. Do you know if you included all of the PMP data
9 when cross-referencing that?

10 A. Yes.

11 Q. Okay. So if we can take a look at -- before get
12 there, including PMP data in relation to continuation of
13 care?

14 Specifically, did you include PMP data in these
15 summaries when these patients had been given -- been
16 receiving these prescriptions prior to being under the
17 care of Mr. Young?

18 A. It's going to be -- when we do PMP data, we do it
19 for -- are you asking specifically for this -- these
20 charts?

21 Q. For -- and what might help, let's look at what's
22 been previously labeled Exhibit Number 78. And I'm going
23 to just use this ELMO; it's going to be easier.

24 Number 78. So right here, you started off the
25 summary with June 30th of 2016?

1 A. Correct.

2 Q. Right. So my question to you is, were there any
3 other PMP entries for Ms. Amy Sanders prior to June 30th
4 of 2016?

5 A. I would have to see the PMP data to . . .

6 **MR. DAMAS:** If I may approach?

7 **THE COURT:** Good ahead.

8 **BY MR. DAMAS:**

9 Q. Do you recognize that?

10 A. This is a -- is this a full PMP?

11 Q. It's not the full PMP. It's just -- it's
12 specifically relating to the time period around June 30,
13 2016.

14 But do you recognize what that document is?

15 A. Yes. Yes.

16 Q. Yes?

17 A. (Nodding head up and down.)

18 Q. What is that?

19 A. This is a CSMD.

20 **THE COURT:** I couldn't hear you. What did you
21 say?

22 **THE WITNESS:** A CSMD or a P -- PMP.

23 **BY MR. DAMAS:**

24 Q. The same -- same --

25 A. Same difference.

1 Q. I used it interchangeably.

2 But who's it for?

3 A. Amy Sanders.

4 Q. Amy Sanders.

5 Did you happen to get a chance to -- if there was
6 any other narcotics given to Ms. Sanders by a different
7 provider prior to June 30, 2016?

8 A. Yes.

9 Q. Thank you.

10 **MR. DAMAS:** I move to admit, Your Honor.

11 **THE COURT:** What do we have here? How do you
12 describe the document?

13 **MR. DAMAS:** This would be Amy Sanders' PMP data,
14 I guess.

15 **THE COURT:** Okay. We'll go ahead and receive
16 it. That will be Number 93.

17 (The above-mentioned item was marked as
18 Exhibit No. 93.)

19 **BY MR. DAMAS:**

20 Q. So as we can see, Special Agent Scales, you started
21 off the summary with June 30, 2016, prescription given to
22 Ms. Sanders by Jeff Young. But there's also other
23 prescriptions for narcotics from other providers prior to
24 that, correct?

25 A. Correct.

1 Q. Is there any reason why that wasn't included in the
2 summaries?

3 A. Because these are specific examples showing that
4 Jeff Young was prescribing to her.

5 Q. You don't think it's relevant to show that she was
6 already receiving care prior to coming up with Jeff Young
7 and he's just continuing that care once he comes into --
8 once she comes under his care?

9 A. We have the burden of proving and that he was
10 distributing drugs.

11 Q. But it is relevant?

12 A. Not to what we're trying to --

13 Q. Okay.

14 A. -- prove.

15 Q. All right. Let me just ask you this: Is it
16 possible that you left out that kind of information on
17 other patients as well?

18 A. It is possible, because it's only for Jeff Young.

19 Q. So let's go to Cyndal Story. Cyndal Story. That's
20 previously marked Exhibit 76, Page 8.

21 All right. And I'm going to hand this up to you.
22 Let me know if you recognize what this is.

23 (A document was passed to the witness.)

24 A. Another CSMD, and at this time, for Cyndal Story.

25 **BY MR. DAMAS:**

1 Q. For Cyndal Story.

2 MR. DAMAS: I move to admit, Your Honor, PMP
3 data for Cyndal Story.

4 THE COURT: We'll receive it. It will be
5 Number 94.

6 (The above-mentioned item was marked as
7 Exhibit No. 94.)

8 BY MR. DAMAS:

9 Q. All right. So on this previously marked exhibit,
10 this is the first instance that Jeff Young prescribes
11 alprazolam and hydrocodone to Ms. Story; is that correct?

12 A. Correct.

13 Q. Okay. And we can take a look at Ms. Story's PMP.
14 She had been receiving those types of medications prior
15 to coming under the care of Mr. Young; is that correct?

16 A. Correct.

17 Q. So continuation of care --

18 A. Correct.

19 Q. -- right?

20 And that was left out from the summaries, correct?

21 A. Correct.

22 Q. Okay. And you said the reason you're leaving out
23 this information is because it's not relevant to your
24 case?

25 A. We specifically stated that these PMPs were from

1 Jeff Young's prescribing, and those -- a prescriber
2 that's not Jeff Young is not being specific examples to
3 the crime we investigated.

4 Q. Because -- once again, because it's not relevant to
5 your case, to your burden of proof, right?

6 A. Correct.

7 Q. But it is relevant as to whether Mr. Young was
8 continuing the care of prior -- prior prescribing,
9 patients?

10 A. Not necessarily.

11 Q. Okay. Let's go to Ben Elston, Mr. Young's
12 bodyguard. Previously Exhibit 83.

13 You recognize what this is?

14 (A document was passed to the witness.)

15 A. Another PIP or CSMD.

16 **BY MR. DAMAS:**

17 Q. For Mr. Ben Elston?

18 A. Yes, sir.

19 **MR. DAMAS:** Move to admit, Your Honor.

20 **THE COURT:** 95.

21 (The above-mentioned item was marked as
22 Exhibit No. 95.)

23 **BY MR. DAMAS:**

24 Q. So for Mr. Elston, the first time Mr. Young gives
25 him a prescription is September 25, 2014?

1 A. Correct.

2 Q. And just quickly looking at his PMP data, prior to
3 2014, he's also receiving that type of medication from
4 other prescribers, correct?

5 A. Correct.

6 Q. And once again, the reason you left this out is
7 because it's not relevant to the case you were trying to
8 prove --

9 A. Correct.

10 Q. -- correct?

11 I know you did it with Mr. Chad Newsom. You looked
12 at whether there was a clinical visit or not. Did you do
13 that for the rest of these?

14 A. Yes.

15 Q. Were you able to verify that many times, most of
16 the time, these were in relation to an office visit?

17 A. Can you repeat that question?

18 Q. Were you able to verify that a lot of these
19 prescriptions are being prescribed after an office visit
20 was conducted?

21 A. Yes.

22 Q. Okay. And I can go through and show the instances
23 of each time where the PMP wasn't completely shown here,
24 but just last one: Mr. Jay Green. I believe he was
25 previously marked Exhibit 84.

1 Is -- did you include, in Mr. Jay Green's summary
2 regarding his PMP, when he was receiving prescriptions
3 for opioids at the same time from other prescribers when
4 he didn't see Mr. Young?

5 A. Are you saying in the --

6 Q. In the time -- in the relevant time frame of this
7 summary?

8 A. If it didn't have anything to do with Jeff Young,
9 it was not put into --

10 Q. So it wasn't -- it wasn't included.

11 Okay. I seem to recall -- it might have been
12 yesterday -- testimony over Ms. Daphne Montoya. It might
13 have been this morning, honestly. It's just been two
14 very long days.

15 You testified to the fact that Ms. Montoya was
16 using an alias. Daphne Joyner versus Daphne Montoya?

17 A. Correct.

18 Q. Do you have any information as to whether or not
19 that's really just the difference between somebody's
20 maiden name and somebody's married name?

21 A. Yeah, it'd still be an alias.

22 Q. Okay. And you don't know -- did you get any
23 information that during that relevant time period where
24 both names were being used of whether or not she was
25 going through a divorce?

1 A. I'm not sure.

2 Q. Would that explain why the two different names?

3 A. Say that -- can you repeat that question?

4 Q. With her -- with her going through a divorce during
5 that time period, would that explain?

6 A. It's possible.

7 Q. Okay.

8 **MR. DAMAS:** No further questions, Your Honor.

9 **THE COURT:** All right. Thank you.

10 Any redirect?

11 **MR. PENNEBAKER:** Just one question or two, Your
12 Honor.

13 **REDIRECT EXAMINATION**

14 **BY MR. PENNEBAKER:**

15 Q. Special Agent Scales, are we looking at
16 Exhibit Number 95 again?

17 A. Yes.

18 Q. Mr. Elston's CSMD data?

19 A. Yes, sir.

20 Q. And it looks like the first prescription from the
21 defendant is the oxycodone, 325, 7.5 on 9/25 of 2014?

22 A. Yes.

23 Q. And, indeed, you see that he is not the first
24 person to prescribe controlled drugs to Mr. Elston, is
25 he?

1 A. No.

2 Q. It looks like there are a few other providers, even
3 just during this short time frame, about a month.

4 Between August 12th and September 12th of 2014?

5 A. Correct.

6 Q. Buprenorphine is used to treat heroin and methadone
7 addiction, isn't it?

8 A. Yes.

9 **MR. PENNEBAKER:** No further questions, Judge.

10 **THE COURT:** Recross based on that, Mr. Damas?

11 **MR. DAMAS:** No, Your Honor.

12 **THE COURT:** All right. Thank you.

13 Special Agent Scales, thank you very much. You
14 can step down.

15 (The witness complies with the request.)

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1 **TRICIA AULTMAN, M.D.,**

2 having been first duly sworn, was examined and testified
3 as follows:

4 **DIRECT EXAMINATION**

5 **BY MS. PAYERLE:**

6 Q. Good morning, Dr. Aultman.

7 A. Good morning.

8 Q. Will you please introduce yourself to the jury,
9 your name, your job.

10 A. Okay. My name is Tricia Aultman. I'm an internal
11 medicine doctor in Gulfport, Mississippi. I work
12 currently as a hospitalist, so I see patients only in the
13 hospital. I've previously had a clinic and done both as
14 well.

15 Q. How long have you been practicing medicine?

16 A. I graduated from medical school in 1996, and I
17 finished my training in 1999.

18 Q. And do you -- could you describe for the jury your
19 experience prescribing controlled substances?

20 A. It's definitely something I do every day, rounding
21 in the hospital. We have a really sick cancer ward, and
22 when I'm on there, it's -- it's a daily thing.

23 Q. And how about -- could you describe to the jury
24 your experience running a clinic?

25 A. I did for many years. Back before there were

1 hospitalists, you used to go to the hospital, and then
2 you would go to the clinic, and then you'd go back to the
3 hospital. I did it. I owned my own clinic for a while,
4 and I was also employed by a hospital for a while.

5 Q. And you said you were in internal medicine; is that
6 right?

7 A. Yes, ma'am.

8 Q. Can you describe for the jury what internal
9 medicine is?

10 A. So internal medicine is a doctor for an adult. So
11 a family practice, you see all ages, and internal
12 medicine is usually over 15 or wherever you're kind of
13 comfortable.

14 Q. But is it a -- is it a -- sort of, do you
15 concentrate on a particular part of the body, or is it a
16 general care kind of job?

17 A. No, it's a total care of an adult patient.

18 Q. And how about your experience working with nurse
19 practitioners? Could you describe that to the jury?

20 A. We have nurse practitioners that we work with every
21 day in our group.

22 Q. Have you ever testified for the government before
23 in cases involving prescriptions for controlled
24 substances?

25 A. Yes, ma'am.

1 Q. And in particular in cases involving prescriptions
2 for controlled substances in a family practice setting?

3 A. Yes, ma'am.

4 MS. PAYERLE: At this time, Your Honor, the
5 government moves to qualify Dr. Aultman in the field of
6 internal medicine, including the professional practice
7 and legitimate medical purpose of prescribing opioids,
8 benzodiazepines, and other controlled substances.

9 THE COURT: That's a mouthful.

10 MS. PAYERLE: Yes, sir.

11 THE COURT: Mr. Ferguson, anything on that?

12 MR. FERGUSON: No. We've met before. She's
13 been a witness previously, and we would also accept her
14 as an expert.

15 THE COURT: All right. Thank you.

16 Ladies and gentlemen, we are going to receive
17 Dr. Aultman as an opinion or expert witness in the field.
18 Ladies and gentlemen, what this means is -- used to call
19 them expert witnesses. Now they're called opinion
20 witnesses. Because of training, experience, things like
21 that, education, this allows this witness to be able to
22 give opinions on the certain areas relative to the area
23 that she's being held out as an opinion or expert
24 witness. I have an instruction for you on how to handle
25 opinion or expert testimony at the end of the case, but

1 this witness will be allowed to give opinions.

2 You may proceed.

3 **MS. PAYERLE:** Thank you, Your Honor.

4 **BY MS. PAYERLE:**

5 Q. Dr. Aultman, in preparing for your testimony today,
6 did you review patient records that were collected from
7 Mr. Young's clinic?

8 A. I did.

9 Q. And did you also review videos showing -- showing
10 the defendant interacting with patients?

11 A. Yes, ma'am.

12 Q. And distributing controlled substance
13 prescriptions?

14 A. Yes, ma'am.

15 Q. Focusing on opioid prescriptions, can you tell the
16 jury your opinion about whether, in anything you
17 reviewed, you saw Mr. Young distributing opioids in the
18 ordinary course of professional practice for a legitimate
19 medical purpose?

20 A. No, I did not. I feel like it was way outside what
21 a legitimate medical visit would be.

22 Q. And we will talk more about sort of what that means
23 in a moment. But how about some benzodiazepines like
24 Xanax and Klonopin? Can you tell the jury your opinion,
25 generally, about Mr. Young's distribution of those

1 substances based on what you reviewed?

2 A. I feel like they were used -- over used and used
3 for indications that weren't necessary and used in
4 combination with opioids, which is dangerous because when
5 you take those medicines together, it can actually cause
6 increased sleepiness. And there's actually a "black box"
7 warning on those now, which means you shouldn't prescribe
8 them together.

9 Q. And so in those cases, which, again, we'll describe
10 in more detail later, was Mr. Young distributing
11 benzodiazepines in the ordinary course of professional
12 practice for a legitimate medical purpose?

13 A. No, ma'am.

14 Q. And then did you also see him prescribing other
15 controlled substances like Adderall or muscle relaxants?

16 A. Yes, ma'am.

17 Q. And could you describe your opinions about his
18 prescriptions of Adderall and muscle relaxants?

19 A. In regards to Adderall, there was never a history
20 taken for attention deficit disorder. There was, you
21 know, no questioning of the person, like, when were you
22 diagnosed as a child? How long have you taken this
23 medication? It was basically just, you know, said that
24 they have ADD, and the medicine was given. It was also
25 sometimes given to patients that had high blood pressure

1 or heart problems, which can be dangerous. And the
2 muscle relaxants, again, in combination with opioids or
3 benzodiazepines, can cause excessive sedation.

4 Q. Now, I want to dive into the basis of those
5 opinions, but first address his records generally.

6 If you had to sort of grade the quality of
7 Mr. Young's professional practice in terms of his medical
8 record-keeping skills, A to F, how would you grade him?

9 A. I would say F.

10 Q. Okay. And now -- but if he had -- if those records
11 had been pristine and organized but contained the same
12 information, would that change your opinion?

13 A. No.

14 Q. Even if they had been sort of more fully papered,
15 would that have changed your opinion?

16 A. It would not change my opinion about the
17 prescriptions being written inappropriately.

18 Q. All right. So let's set a baseline for your
19 opinion about -- I'm going to take that long phrase, the
20 legitimate medical purpose of opioids in the course of
21 professional practice. It's just a long phrase, so I
22 want to break it in two.

23 A. Yes, ma'am.

24 Q. Let's start with the legitimate medical purpose of
25 opioids.

1 Do opioids, benzodiazepines, and Adderall and other
2 controlled substances have legitimate medical purposes?

3 A. Yes. Absolutely.

4 Q. All right. Let's start with opioids. Can you give
5 the jury some examples of, first of all, some of the
6 opioid drugs that Mr. Young was prescribing?

7 A. So he was prescribing hydrocodone and hydrocodone
8 with Tylenol, which is commonly known as Lortab or Norco,
9 some older Vicodin. He was prescribing oxycodone
10 which -- alone and with Tylenol, which is commonly known
11 as Percocet. He was also prescribing fentanyl patches.

12 Q. Okay. And how about hydromorphone. Was he
13 prescribing the --

14 A. Yes, there was some hydromorphone as well.

15 Q. All right. And is there -- in terms of the
16 strength of these drugs, the jury's heard some testimony
17 about --

18 **THE COURT REPORTER:** Excuse me. Slow down,
19 please.

20 **MS. PAYERLE:** Oh, I'm so sorry. Thank you.

21 **BY MS. PAYERLE:**

22 Q. The jury has heard some testimony about what --
23 what some of these drugs are stronger than others. Can
24 you explain how the strength of an opioid is measured
25 against each other?

1 A. So there is a -- a grading scale called a morphine
2 milligram equivalent, and what that means is that they
3 compare everything to one milligram of morphine. So
4 hydrocodone is the same, so it's a one for one. So
5 5 milligrams of hydrogone (phonetic) is 5 milligrams of
6 morphine. Oxycodone is one and a half times, so 10
7 milligrams of oxycodone is 15 milligrams of morphine. A
8 fentanyl patch is strong. A 25-microgram patch is the
9 same as 60 milligrams of morphine. And they're measured
10 in milligrams of morphine per day.

11 It's hard sometimes to calculate it all, but
12 there's -- you know, calculators online now makes it
13 really easy. You just plug in the drugs that they're
14 taking, and you can calculate out how much it equates to
15 in morphine.

16 Q. And can you give us kind of a sense of how many
17 MMEs or milligram -- sorry -- morphine milligram
18 equivalents -- can you give you sense of, like, the --
19 put some numbers on that, you know, where it's normal,
20 what a new patient gets, what a tolerant patient gets,
21 things like that?

22 A. Right. So a new patient, probably 10 to 15 is
23 plenty. People, over time, develop tolerance, and
24 sometimes you do you have to go up on that. Definitely
25 over 90 starts to increase the risk of overdose and

1 oversedation, hospitalizations related to that. So 90 is
2 sort of a general cutoff for when things start to get a
3 lot more dangerous.

4 Q. And you're talking about 90 --

5 A. Morphine milligram equivalents per day, yes, ma'am.

6 Q. So let's talk about the purpose of opioids. What
7 is the legitimate medical purpose of these opioid drugs
8 that you're describing?

9 A. So they're used for pain relief.

10 Q. Any kind of pain relief?

11 A. They're used -- useful for acute pain. So when you
12 have, like, an injury right away, opioids are good for
13 that, short-term, you know, three to five days a week or
14 less. They're good for post-surgical pain. Obviously
15 gets something cut on, you're going to need pain relief,
16 either IV or by mouth, for a while.

17 Opioids actually, for chronic pain, have been
18 studied a lot, and they really don't help. They really
19 cause more problems than benefits.

20 Q. When you say "chronic pain" and -- could you
21 compare that to what you mean by acute pain? Just
22 familiarize the jury.

23 A. Right. So acute pain is like probably maybe less
24 than, depending on the definition you look at, 30 days,
25 and chronic pain is six weeks to three months, and you're

1 still having pain or longer than what you would expect
2 for something to get healed.

3 Q. And you said that there's been studies done showing
4 opioids aren't really appropriate or helpful for chronic
5 pain. Can you kind of tell the jury when, in time -- you
6 know, what year or so those studies became pretty widely
7 understood and accepted in the medical community?

8 A. I think it was the -- it was definitely, I would
9 say, around 2010 probably. There was enough evidence to
10 prove that by then.

11 Q. And when you say that opioids make chronic pain
12 worse, that's kind of counterintuitive. Can you explain
13 how opioids make chronic pain worse?

14 A. So sometimes what happens when you take opioids for
15 a long time is you become overly sensitive, so any
16 normal, maybe, brush or, you know, hit your hand on a
17 table becomes extraordinary painful. And so instead of
18 actually get pain relief, you actually become
19 oversensitive to pain. And the side effects of opioids
20 are, you know, significant. They cause oversedation;
21 they're habit forming; they cause terrible constipation;
22 they cause nausea, vomiting.

23 Q. What do you mean by "habit forming"?

24 A. So even if you don't want to become addicted to an
25 opioid, if you take it long enough, eventually it won't

1 work at the same dose. You'll need an increase dose. We
2 see this in cancer patients who have chronic, severe pain
3 for a very long time, that eventually you have to
4 increase the dose to get pain relief.

5 Q. And does -- is -- are there any consequences of
6 becoming dependent on opioids? What -- what are the
7 risks of that?

8 A. So if you take opioids every day, eventually if you
9 don't take them, you won't feel normal. You'll have
10 withdrawal, which can be shaking; it can be chills; it
11 can be, like, goose flesh or goose bumps, nausea,
12 vomiting, diarrhea, and basically like an all-over pain.
13 So eventually you're taking it just to avoid having a
14 withdrawal.

15 Q. And does that happen with everybody who takes
16 opioids for a certain amount of time?

17 A. I mean -- so everybody will develop a tolerance.
18 So tolerance is something that happens in everybody,
19 whether you want it or not, when it just means that you
20 may need more medicine to get the same relief.

21 Dependence and misuse is different. That means you
22 start to do things that are inappropriate in order to
23 continue to get the medication that you need. That may
24 be, you know, crimes; it may be ignoring your family,
25 quitting your job, stealing from people, whatever it is,

1 and that's when it becomes a bad use of the medication.

2 Q. And do we call that -- I mean, is that what
3 addiction is?

4 A. Yes, ma'am.

5 Q. Okay. Aside from addiction and dependence, those
6 are two different things, right?

7 Physical dependence, and then addiction is the
8 acting out?

9 A. Right.

10 Q. Okay. Aside from addiction and dependence, what
11 other risks are there of prescribing opioids?

12 A. To the patient or the -- to the --

13 Q. To the patient.

14 A. Yeah. So the risk of addiction, dependence, if,
15 for example, someone who takes a lot of opioids gets
16 hospitalized for another reason, it's really, really
17 difficult to control their pain. That's probably the
18 biggest thing that I see, that people that take a lot of
19 medicine and then they have surgery and, you know, you
20 get the call and they're just horrifically in pain
21 because they haven't had their normal daily medicine, and
22 we're giving them a usual dose, which is not helping at
23 all.

24 Q. And what about risks of overdose or respiratory
25 issues, things like that?

1 A. So definitely risk of overdose, especially when you
2 get over 90 morphine milligram equivalents or MME,
3 especially when given with benzodiazepines, particularly
4 in someone who's overweight and may have sleep apnea or
5 may have some other medical issue, whether it be lungs
6 or heart, that would contribute to that.

7 Q. And why -- why does the risk of overdose increase
8 if you combine the opioids with the benzodiazepines, as
9 you just said?

10 A. It just causes excessive sedation, more than what
11 you would get if you took either one alone. When you put
12 them together, it's kind of -- it's kind multiplicative
13 or adds on.

14 Q. Does it also -- when you add them together, does it
15 also increase the high of both of them if that -- if
16 you're a person in whom it causes a high?

17 A. It does. And it's known to be abused, the opioids
18 in combination with benzodiazepines and sometimes in
19 combination with one of the muscle relaxers as well.

20 Q. Okay. Let's talk for a minute about fentanyl.
21 Could you describe for the jury -- give them a sense of
22 the strength of fentanyl as compared to the other opioids
23 we've been talking about.

24 A. So fentanyl, like we talked about earlier, when
25 used in a patch is indicated for use in people that have

1 been on opioids at 16 -- I'm sorry; 6-0 -- 60 morphine
2 milligram equivalents of some opioid a day for at least a
3 week. In other words, it's not for someone who's never
4 taken opioids before, and it's not for someone who's on a
5 small dose of opioids. It's indicated for people who
6 have taken at least 60 MME for a week.

7 Probably the biggest use in the hospitals -- two
8 things: One is in cancer pain. It provides a continuous
9 release of pain for people that have things like invasion
10 of organs or bones or something that's extraordinarily
11 painful.

12 It's also used sometimes with our cardiothoracic or
13 our heart surgeons. They put it on in the operating room
14 at a low dose. And then the person's going to be in the
15 ICU for several days. They can be easily monitored. So
16 although those people are naived opioids, they're going
17 to be monitored in a ICU setting.

18 Q. Even though it's a patch -- you don't swallow a
19 pill -- is it still as dangerous as any other opioid?

20 A. It's actually -- it perhaps is more dangerous
21 because it has a slow onset. So you could put the patch
22 on, and then by the time you go to sleep, its effects are
23 getting into your bloodstream. And so it's a heightened
24 effect by then, and it's significantly stronger than
25 other opioids that are commonly taken. Like a

1 25-microgram patch is equal to 60 morphine milligram
2 equivalents. A 50-microgram patch is equal to 120
3 morphine milligram equivalents.

4 Q. Okay. Now, is it a legitimate medical purpose of
5 opioids to feed or create an addiction to them in your
6 patient?

7 A. No. It's actually harmful.

8 Q. Is it a legitimate medical purpose of opioids to
9 get somebody through kind of get somebody through
10 withdrawals or detox indefinitely?

11 A. No. They're -- there's definitely ways to do that,
12 and, you know, continuing to prescribe different doses of
13 opioids is not the way.

14 Q. And did you see Mr. Young doing that in this case?

15 A. He did.

16 Q. Okay. Is it -- and these may be just completely
17 obvious, but is it a legitimate medical purpose of
18 opioids to induce someone to have sex with the person
19 prescribing the drugs?

20 A. No, ma'am.

21 Q. Or to create a reputation for being unconventional?

22 A. No, ma'am.

23 Q. Or to pay somebody back for being a friend or for
24 their loyalty?

25 A. No, ma'am.

1 Q. What about to get in good with a famous member of a
2 band?

3 A. No, ma'am.

4 Q. No. Okay.

5 Let's talk about benzodiazepines next. Can you
6 give an example of some benzodiazepines?

7 A. So common names for benzodiazepines are Valium,
8 Ativan, Xanax, and Klonopin.

9 Q. And those are brand names?

10 A. Yes, ma'am.

11 Q. And what are the -- sort of the drug names for
12 those the brands?

13 A. So diazepam, lorazepam, oxazepam, alprazolam. I
14 think we got them all. And --

15 (Indiscernible cross-talk was had.)

16 **THE COURT REPORTER:** One second.

17 **THE COURT:** Y'all were talking over each other.

18 **MS. PAYERLE:** I know. I'm sorry.

19 **THE COURT:** She can't get it down.

20 A. Clonazepam. And yes, most of the benzodiazepines
21 have a "pam" at the end.

22 **BY MS. PAYERLE:**

23 Q. Okay. You -- you testified you've prescribed these
24 drugs in the context of a family practice. How often?

25 A. That's difficult to answer. I think you definitely

1 have to have an indication for it. Probably the most
2 common way I would prescribe them is in an older person
3 that has restless legs. If you use a really low dose of
4 Klonopin, that usually works.

5 Benzodiazepines don't work for anxiety disorder.
6 They're just not indicated. It doesn't help. There's
7 other drugs that are better for that. You can use them
8 for panic attacks. Like a good example, I had a patient
9 who couldn't drive over the bridge to get to her
10 grandkids in New Orleans. But if she took a teeny-tiny
11 dose, she was able to drive through. So I maybe
12 prescribed her five a year.

13 Same with airplane flights. That was another,
14 probably, indication I would use it in my private
15 practice.

16 Q. And you said you'd give them a teeny-tiny dose.
17 Let's talk for a minute about dosing.

18 For benzodiazepines, what is the kind of
19 introductory, if a doctor decides that a benzodiazepine
20 is appropriate?

21 A. So probably for a Xanax, it would be .25. For
22 Ativan, .5. For Valium, probably 2 milligrams.

23 Q. Okay. So Xanax -- just to do some math, a Xanax
24 1-milligram pill is like four times the introductory
25 dose --

1 A. Yes, ma'am.

2 Q. -- of Xanax?

3 Okay. And do you know what the highest dose pill
4 of Xanax available is?

5 A. I think they make 2-milligram pills. I'm not sure
6 if they make anything higher.

7 Q. All right. And then what about with OxyContin?

8 What are the kind of dose levels for -- or oxycodone;

9 sorry. What are the kind of dose levels for oxycodone?

10 A. So oxycodone, like an introductory dose of Percocet
11 for acute pain, would be 5 milligrams. You can do 2.5 as
12 well, if it's small person with, like, no tolerance and a
13 mild pain.

14 Q. And so what -- what dosages do oxycodone pills go
15 up to? Do you know?

16 A. Oxycodone itself, I think, probably goes at least
17 to 20. OxyContin, the longer acting, goes up much
18 higher.

19 Q. Okay. And if you were -- if you saw somebody was
20 prescribed an oxycodone or oxy 30 milligram -- well,
21 maybe we'll just look at it later. We'll take a look --

22 A. Yes.

23 Q. -- when you have an example.

24 A. I think they go up higher.

25 Q. Okay.

1 A. It's just not used very frequently because if you
2 get to a higher dose of oxycodone, the use, you should be
3 using the long-acting formulation instead.

4 Q. I see. The long-acting formulation.

5 A. Yes, ma'am.

6 Q. Explain the difference there between the longer
7 acting and short acting.

8 A. So the idea behind the long acting is that you
9 don't have breakthrough pain, that you can take it every
10 12 hours. It's sort of easier for someone's lifestyle if
11 you're working or certainly easier on the nursing staff
12 to dose something twice a day than every four or six
13 hours.

14 Q. And does it just sort of slowly absorb? How does
15 it work?

16 A. Right. So I don't know the biochemistry of it, but
17 I know that they're meant to be long acting. And part of
18 the long-acting thing is also an abuse deterrent, that
19 they're more difficult to abuse. Of course there's
20 always a way around that, I think, but . . .

21 Q. And you said you've been in charge of a clinic?

22 A. Yes, ma'am.

23 Q. To how many of your employees, when you were in
24 charge of a clinic, did you prescribe monthly doses of
25 Xanax?

1 A. None.

2 Q. And how about Adderall?

3 A. No, ma'am.

4 Q. All right. Speaking of Adderall -- and actually,
5 can you give the jury your opinion about whether it would
6 be appropriate to do so?

7 A. To prescribe to your employees?

8 Q. Yes, to prescribe to most or all out of your
9 employees.

10 A. No, I think it's very difficult to maintain
11 professional relationship if you're seeing somebody for a
12 substance that could be a -- potentially abused. I think
13 it'd be really hard to be unbiased and fair as an
14 employer and the doctor.

15 Q. And can you explain to the jury why it's so
16 important, with controlled substances specifically, to
17 have that distance or that professional relationship with
18 the people to whom you're prescribing?

19 A. I think you have to be very careful when you're
20 prescribing a controlled substance, that you're doing it
21 honestly and that you're not doing it because you feel
22 bad for somebody or you don't want them to be angry with
23 you or you don't want them to be disappointed in any way.
24 You have to be doing it for a legitimate medical reason.

25 Q. Is it harder to do that if you have personal

1 involvement with the person?

2 A. Yes, it'd definitely be harder to distance
3 yourself.

4 Q. All right. Let's talk about Adderall quickly.
5 What is the legitimate medical purpose of Adderall?

6 A. It's used for attention deficit hyperactivity
7 disorder. Sometimes it's used in people that have
8 chronic sleep apnea and sleep disorders to take in the
9 morning.

10 Q. And how do you determine whether somebody has --
11 let's take attention deficit disorder?

12 A. So attention deficit sorter (as heard), the
13 definition at least back in the 2014-'16-'18 time era,
14 you had to have a pretty specific set of symptoms that
15 the psychiatry board lays out, and you have to have those
16 symptoms -- like five out of six or five out of ten
17 symptoms present every day for six months.

18 So when you diagnose, you have to be very careful
19 to take a history. And there are definitely check-off
20 sheets you could get off the internet and check off. You
21 know, they have six out of ten or whatnot. Also, just
22 ask them, you know, did you have ADD as a kid, and how
23 was it treated, and how long did you take medicine, and
24 what did it do for you?

25 Q. And if -- is this form you're talking about, it's a

1 test that's just a form?

2 A. You can do that. You can also send someone for
3 psychologic testing, which is pretty involved. I think
4 it's a lot more common to do that in kids.

5 Q. And does Adderall have risks associated with it?

6 A. It does. So it can cause elevated blood pressure;
7 it can cause a rapid heartbeat or tachycardia; it can
8 cause weight loss, shakiness, jitteriness, weight loss.

9 Q. And is, in fact, it's sometimes prescribed for
10 purposes of weight loss or abused for that purpose?

11 A. It's abused for that purpose. It's not a
12 legitimate medical indication to use it.

13 Q. All right. Let's talk about the professional
14 practice. So we talked about legitimate medical
15 purposes. Now we're getting into the professional
16 practice or the ordinary course of professional practice
17 of prescribing these drugs.

18 When you talk about sort of the practice of
19 medicine generally, what -- what does that discipline
20 refer to? What set of steps and sciences does that
21 discipline refer to?

22 A. So the practice of medicine is using your skills
23 and a history taking and examination and ordering things
24 together to come to a diagnosis to treat the patient and
25 most importantly to do so without causing any harm.

1 Q. What does it mean to diagnose a patient?

2 A. So "diagnose" means to find the cause of the
3 illness. What's the underlying disorder?

4 Q. And it sounds silly, but why do you need to do
5 that?

6 A. You need to find a diagnosis for two reasons,
7 really: One is so you know what you're treating. You
8 have to know what you're treating to know how to treat
9 it, right? So back pain can be kidney stones, ovarian
10 cysts, uterine fibroids, pregnancy. It can be a lot
11 things, so you have to know what you're treating.

12 And the second reason that you need a diagnosis is
13 so you don't miss something. You don't ever want to miss
14 something horrible that someone has because you weren't
15 thorough when you worked it up.

16 Q. And can you give an example of that kind of a
17 scenario?

18 A. Yeah. Actually, I was a third-year resident, and
19 it sticks with me well because I was young and
20 impressionable. But I was called to the ER to admit a
21 patient, and I was on the cancer service. And the story
22 was that this guy had come to the ER every Friday after
23 work. He was a construction worker. Every Friday, he
24 complained of back pain, and someone in the ER would say,
25 you know, just give him some Lortab and just he'll go

1 away. And then somebody finally said, you know what?
2 Let's scan this guy and see what's wrong with him, and we
3 can tell him, you know, there's nothing wrong with you.
4 You have a pill problem.

5 And so lo and behold, they scan this guy. He had
6 an enormous lymphoma, which is a tumor that was pressing
7 on all kinds of things. And I had to admit him for sort
8 of urgent chemotherapy. So that's why it's important to
9 go do an investigation so you don't miss something.

10 Q. And through that diagnosis, were you able to treat
11 the cancer rather than give him pills?

12 A. Yes, ma'am.

13 Q. What does the process of finding a diagnosis look
14 like?

15 A. So in the clinic or --

16 Q. Uh-huh, in a clinic.

17 A. Right. So it's -- it compose of, first you got to
18 talk to the patient, right? Sometimes it's -- so surveys
19 you have to fill out with a lot of questions. Those have
20 become really popular. But ultimately, the physician and
21 the provider has to take a history. So you ask what
22 symptoms do you have; how long have they been there? Is
23 there anything make them better, make them worse? And
24 then you go through their past medical history. So what
25 other problems you have? Hypertension, diabetes,

1 coronary disease.

2 Then you go through their social history: Do you
3 smoke? Do you drink? Do you have any history of drug
4 abuse? Is there abuse in your family? Have you ever
5 been sexually abused? And then a family history is, you
6 know, basically your parents, brothers, sisters. Then
7 you do a physical examination. You may actually, you
8 know, also order tests or labs or review older labs or
9 tests. And then finally you kind of pull everything
10 together in an assessment and plan. An assessment is
11 basically your diagnosis and then the plan to treat it.

12 Q. I'm going to ask you about something called
13 continuity of care. Is it within the scope of
14 professional to just prescribe whatever the last doctor
15 prescribed and call it a day?

16 A. No. You're actually under no obligation to
17 continue the therapy that somebody else was giving. you
18 have to make your own independent evaluation.

19 Q. So what does the phrase "continuity of care"
20 actually refer to?

21 A. Continuity of care refers to a patient that comes
22 to me, and they may have hypertension, and I need to
23 continue that medication in a way of good treatment, if
24 it's the best thing for them. Let's intervene if I feel
25 like something else needs to be added.

1 Q. So if it turned out that patient did not, in fact,
2 have hypertension in your opinion, would it be right to
3 continue the care?

4 A. No, ma'am.

5 Q. Have you ever heard of doctor shopping in a
6 controlled substance context?

7 A. Yes, ma'am.

8 Q. What is doctor shopping?

9 A. So doctor shopping is when a patient goes from
10 various ERs or urgent cares or primary care practices to
11 try to obtain opioids or benzodiazepines or other desired
12 drugs.

13 Q. So with controlled substances, is it more important
14 or less important than in the case of high blood pressure
15 to make an independent evaluation of whether the patient
16 in front of you needs opioids from you, the doctor?

17 A. It's way more important.

18 Q. Describe why for some --

19 A. It's a controlled substance. It's dangerous.
20 There's laws regarding its use.

21 Q. Okay.

22 **MS. PAYERLE:** I may have just a moment.

23 Okay. At this time, Your Honor, I'd like to
24 show the witness Exhibit 21, which is already in
25 evidence.

1 **THE COURT:** This may be -- excuse me. This may
2 be a good time to go ahead and break for lunch.

3 **MS. PAYERLE:** Absolutely. It's perfect timing.
4 Thank you.

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1 **THE COURT:** Ladies and gentlemen, we're going to
2 go ahead and break for lunch at this time. It's about
3 12:15, so we'll pick this up at 1:30. Your lunch is
4 already in there waiting for you. Please enjoy it. It's
5 a long break. And as I said, we'll pick it up at 1:30.
6 Leave your notebooks, don't discuss, and I'll see you
7 after lunch.

8 (Jury out at 12:14 p.m.)

9 **THE COURT:** Dr. Aultman, don't discuss your
10 testimony with anyone over the break.

11 **THE WITNESS:** Yes, sir.

12 **THE COURT:** You can step down.

13 **THE WITNESS:** Okay.

14 (The witness complies with the request.)

15 **THE COURT:** Okay. I'll see everyone at 1:30,
16 maybe a few minutes before, because I need to hear
17 further, if you have an update for me about defense
18 proof.

19 **MR. FERGUSON:** I'll check on that right now.

20 **THE COURT:** Appreciate it. Thank you.

21 **MR. FERGUSON:** Yes, sir.

22

23 (The morning session concluded at 12:15 p.m.)

24

25

EXAMINATION OF TRICIA AULTMAN, M.D.

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1 CONTINUED DIRECT EXAMINATION

2 BY MS. PAYERLE:

3 Q. Okay. Welcome back. Dr. Aultman, good afternoon.

4 Okay. Just before the break, we were talking about the
5 concept of continuity of care and the importance of making an
6 individual determination for the client -- or to the patient,
7 pardon me; is that right?

8 A. Yes, ma'am.

9 Q. Okay. At this time, I'd like to introduce, or,
10 actually, just put up for the jury Exhibit 21.

11 Dr. Aultman, Exhibit 21, which is already admitted,
12 will appear on your screen in front of you momentarily. Now,
13 is this a patient record for Hope Rogers, which you have
14 reviewed in connection with this case?

15 A. Yes, ma'am.

16 MS. PAYERLE: Excuse me. Could we please go to
17 page 74 of this document.

18 BY MS. PAYERLE:

19 Q. All right. Dr. Aultman, could you orient the jury to
20 what -- are you going to be testifying about a few, not very
21 many, but just a few of these documents that look like this?

22 A. Yes, ma'am.

23 Q. All right. Could you orient the jury to what kind of
24 a document this is within the patient file.

25 A. So in this practice's medical records, all of the new

EXAMINATION OF TRICIA AULTMAN, M.D.

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1 patient visits were in pink, which was actually nice. It was
2 easier for me to scroll to find the first visit because there
3 was a lot of pages of a lot of files.

4 So you see here, it has a patient name and
5 demographics on top and then their chief complaint, which is,
6 you know, why are you here, kind of thing. And then after
7 that is review of systems. And a review of systems is when a
8 doctor goes through and is trying to ask you if there is
9 anything else wrong, like starting really head to toe, like,
10 headaches, visual changes, blurry vision, and then your ears.
11 Do you have allergies, runny nose, ear infections, sore
12 throat, thyroid problems?

13 So you kind of go head to toe and then you can see
14 they circled the sinus there. And then it looks like they're
15 going through some medical history there and listing her
16 allergies. There's a place to document her shots, and then
17 there's a second page usually to the initial patient visit.

18 MS. PAYERLE: Let's go ahead and flip to the next
19 page. There we go.

20 THE WITNESS: So on the top, the intake tech or
21 nurse or office staff has put in their active medications
22 right there. Their surgical history, medical history,
23 personal history, and then you can see there, there's a small
24 place -- can I point on this? Can I write on it?

25 BY MS. PAYERLE:

EXAMINATION OF TRICIA AULTMAN, M.D.

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1 Q. You might -- no --

2 MS. PAYERLE: Can she --

3 BY MS. PAYERLE:

4 Q. Oh, great. You can use your finger.

5 A. So right here where, I guess, circle it. That is
6 where Mr. Young would document his exam. I think that word
7 is exam from looking at enough of the records, and then you
8 can see also there's a typed area where you can write part of
9 the physical exam with the vital signs.

10 Q. And then --

11 THE COURT: Could you mark that again, please.

12 THE WITNESS: I have to press on?

13 MS. PAYERLE: Yes, maybe on the right there.

14 THE WITNESS: The pencil didn't work.

15 THE COURT: It's not working; usually you can.

16 MS. PAYERLE: Oh, there it goes.

17 THE COURT: Oh, there we go.

18 THE WITNESS: That looks like on all the records
19 where Mr. Young starts to document his exam. And a physician
20 or a nurse practitioner's exam is basically a bunch of
21 abbreviations, which makes sense to me, but probably not
22 anyone else. So the first word there "test", and it says
23 CTA, which means clear to auscultation. The heart exam,
24 right there. The next one is RRR, which means regular rate
25 rhythm. The next one is abdomen, soft and not tender, and

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1 extremities over here. It says the typical wording is no
2 clubbing, cyanosis, or edema. And then the neurologic exam,
3 he writes is grossly -- I don't know if that's normal. I'm
4 not sure what that word is.

5 BY MS. PAYERLE:

6 Q. Okay. Before getting into more specifics, I think I
7 just want to address one thing you said, which is, there
8 were, in cases, a lot of pages in these records; is that
9 right?

10 A. Yes.

11 Q. Did that correspond -- I mean, did you see within
12 those pages that this sort of meant that he was doing
13 extremely thorough, careful, detailed work?

14 A. No. There was a lot of pages, but not a lot of
15 information.

16 Q. Okay. And the information that was there, would you
17 say it was mostly -- well, first of all, you know, how is his
18 handwriting?

19 A. It's difficult to read. I mean, I'm a doctor. I'm
20 pretty good at that. We used to all, you know, have
21 handwritten charts, and I had a partner that was horrific,
22 but it is still difficult for me to read even kind of knowing
23 what I'm looking for.

24 Q. And setting aside just issues of handwriting or
25 clarity in terms of organization, I want to focus on just the

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11

1 substance of what you could understand. Was it -- did it
2 always, like, make sense from a medical perspective?

3 A. You know, most of the time it didn't make sense, and I
4 spent a lot of time in the records, and they're scanned in
5 kind of reverse chronological order. So the first step was
6 going through and trying to find the first visit and then
7 trying to figure out what, you know, happened in that visit.
8 And sometimes that meant I had to go through way back in the
9 chart and look at the prescription monitoring program, which
10 is like a printout of what patients -- what the medicines
11 that were prescribed that day from a controlled substance
12 standpoint.

13 Q. And why did you have to -- why did you have to look at
14 the prescription monitoring sheet to figure out what he had
15 prescribed? Wasn't it just in his notes?

16 A. It wasn't always in the notes. And this one, for
17 example, it is, and I can read it, but it wasn't always in
18 the note, and it wasn't always readable. And then the urine
19 drug screens and other thing were also scanned in, in a
20 different area of the chart. So there was just a lot of
21 scrolling and back and forth. It was very time-consuming.

22 Q. And I want to get back to just kind of setting aside
23 just the mechanical kind of handwriting and organization
24 issues. In terms of the substance of the charts, can you
25 talk to the jury a little bit more about the effort to just,

EXAMINATION OF TRICIA AULTMAN, M.D.

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1 like, figure out what he was doing?

2 A. It's very difficult to figure out and to make sense of
3 kind of the train of thought. So, for example, in this
4 chart, he gives the impression that she has carpal tunnel
5 syndrome, lower back pain, anxiety, endometriosis, ulcerative
6 colitis, and inflammatory bowel disease. But if you go back
7 to the history on the previous page, like, there's no talking
8 about any of that other than kind of a list of previous
9 problems. None of that's, you know, discussed. There's no
10 questions, like, how long have you had it, who diagnosed it,
11 you know, where were you tested? So it's very scant in terms
12 of telling anything about how he got to the impression and
13 plan.

14 Q. And, in fact, talking specifically about Ms. Rogers,
15 you know, which hand does she have carpal tunnel syndrome in
16 allegedly?

17 A. It looks like the right to me, the R right here.

18 Q. And did you find anything else in the file that would
19 call into question this diagnosis?

20 A. Eventually, he gets -- well, he never does a physical
21 exam or documents a test for carpal tunnel, which is easy.
22 You just bend the person's hand back and you kind of tap
23 right there, and if they have carpal tunnel, it hurts. But
24 he does get kind of an electro kind of diagnostic test called
25 an EMG, a muscle test. And it was actually negative, and she

EXAMINATION OF TRICIA AULTMAN, M.D.

13

1 didn't have carpal tunnel syndrome.

2 Q. All right. And let's talk about ulcerative colitis.
3 That's in there. Did you see anything in the record to
4 suggest anything about that, that she allegedly has?

5 A. He never documented anything about it other than its
6 existence according to whatever history was taken here. But
7 when I reviewed her ob-gyn records and stuff that were in his
8 chart, I believe that she had had a colonoscopy. It was
9 normal, so she didn't have ulcerative colitis.

10 Q. So she did haven't that either?

11 A. No.

12 Q. And what about ulcerative colitis and irritable bowel
13 syndrome, talk about the interaction of those two.

14 A. So ulcer- -- irritable bowel syndrome can be just
15 abdominal pain with either constipation or diarrhea.
16 Ulcerative colitis is a much more serious illness in terms of
17 the need for medication. So it may be that she had a lot of
18 abdominal pain with diarrhea and then someone said, oh, you
19 must have colitis, but she really didn't.

20 Q. She didn't. Okay. Is it normal to have irritable
21 bowel syndrome and ulcerative colitis at the same time?

22 A. No, you would -- you would just -- if you have
23 ulcerative colitis, you would not say that she had irritable
24 bowel syndrome.

25 Q. Okay. And under -- right under that CTS, is that LBP?

EXAMINATION OF TRICIA AULTMAN, M.D.

14

1 A. Yes, ma'am.

2 Q. And what is that an abbreviation for?

3 A. Lower back pain.

4 Q. Okay. What does it say next to lower back pain?

5 A. In parentheses, broken tailbone.

6 Q. And do -- I think we had a little information about
7 how long ago that was in the chart. Do you remember what
8 that was?

9 A. It was on the previous page, and I believe it was pain
10 6 out of 10 that had been going on for quite a while.

11 Q. Okay. And about how long --

12 A. Two-and-a-half months, if you see right there.

13 Q. There we go. So is that normal?

14 A. Probably not. Usually, tailbone stuff heals up pretty
15 good, especially in a young, active 32-year-old person.

16 Q. So if somebody presented --

17 MS. PAYERLE: Let's go back down.

18 BY MS. PAYERLE:

19 Q. So if somebody presented with a broken tailbone
20 complaint of lower back pain after two-and-a-half months, if
21 your goal is to get to a diagnosis and help the patient, what
22 would you do?

23 A. Well, I think -- I think lower back is a different
24 place than your tailbone anyway. So I think you have to
25 clarify, like, where you're actually hurting. He did

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15

1 document a normal neurological exam, but really, it starts
2 with the history, right? Like, there's no history of,
3 like -- like, I don't know how he got from broken tailbone to
4 lower back pain because those are two different places.

5 Q. Okay. And then the last one there is -- up here,
6 what's that word?

7 A. That's endometriosis.

8 Q. Okay. And did you see any -- well, first of all, what
9 is endometriosis?

10 A. So endometriosis is anytime you have the growth of
11 uterine tissue outside the uterus.

12 Q. Did you see anything in her chart that would call that
13 diagnosis into question?

14 A. Usually, people with endometriosis have a difficult
15 time getting pregnant, and she was pregnant, eventually, in
16 the course of her time here in the clinic.

17 Q. Okay. So would any of these diagnoses -- first of
18 all, so when you were talking about having a hard time making
19 sense of many of his charts, is this the kind of thing that
20 you're talking about?

21 A. Exactly. There was sort of no investigation. Then
22 all of a sudden, there was a diagnosis listed under the
23 impression.

24 Q. Okay. And were there times when the impressions were
25 contradictory to each other, contradictory to other things in

EXAMINATION OF TRICIA AULTMAN, M.D.

16

1 the record, didn't make sense in the context of the patient,
2 things like that?

3 A. Yeah, they would just kind of show up or be very
4 vague, like, lower back pain really isn't a diagnosis. It's
5 more of a complaint, right? You need to know why do they
6 have lower back pain.

7 Q. And is that kind of what you were testifying about
8 earlier; it could be cancer, or it could be kidney stones?

9 A. Exactly.

10 Q. All right. All right. So now we've got these
11 impressions or these potential diagnoses. Underneath the
12 potential diagnoses for Hope Rogers, what was Mr. Young's
13 plan that he wrote down?

14 A. So in line with, I guess, a normal, healthy physical
15 exam kind of plan, he orders labs, which is, number one, a
16 blood count, a CMP, which is like a metabolic panel, a kidney
17 function and stuff, a lipid panel. You could argue, probably
18 in her age, is not indicated because she's child-bearing age,
19 and you're not going to treat her anyway. And a thyroid
20 panel, which is definitely indicated in someone her age.

21 Q. Okay. So that's the panel at the top?

22 A. Yeah, that's the number one plan, and that's like a
23 laboratory panel.

24 Q. And then what's the second thing he said he was going
25 to do?

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1 A. Number two, it says, DC, which means discontinue
2 Tylenol 3, which is Tylenol with codeine.

3 Q. And is codeine -- and what is codeine?

4 A. Codeine is a very mild opioid. It's often a first
5 line choice for acute pain.

6 Q. But when you say mild, in MMEs, do you know if it's
7 more or less potent than morphine?

8 A. I believe codeine is less potent than morphine.

9 Q. So it would have an MME of something less than one?

10 A. Yes, ma'am.

11 Q. Okay. And what does he do in number 3?

12 A. In number 3, he -- it says, arrow up, increase
13 Klonopin and then it's one milligram TID. TID means three
14 times a day.

15 Q. And could you tell the jury, you know, sort of what
16 kind of a dose of Klonopin is that? Is that an introductory,
17 medium, high dose?

18 A. That's at least a medium-ish dose, maybe higher. And
19 there's no indication, you know, why he increased the dose.
20 Now, it does say above here that she was taking it three
21 times a day, but she was only getting 60 at a time, and I
22 think he increased it so that she would have it 90.

23 Q. Okay. But even that note about three times a day is
24 also contradictory?

25 A. Right.

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1 Q. Not clear what she was getting?

2 A. No. It's not clear. You would have to look at the
3 PMP and compare it to see what she actually had before.

4 Q. All right. And what's the next line there? What did
5 he give her?

6 A. Number 4 is HCD, which is an abbreviation for
7 hydrocodone, 7.5 milligrams, and TID is three times a day.

8 Q. So is that a low, medium, high dose of hydrocodone?

9 A. It's not the lowest dose. It's not medium, but low
10 medium. How is that?

11 Q. Okay. So in this case, he discontinued a very low
12 level opioid, codeine, and he began hydrocodone, and he
13 increased Klonopin. Is that the drug scenario?

14 A. Yes, ma'am. So, really, with no clear reason that I
15 can understand, he's increased her opioid dose on the first
16 visit and increased the benzodiazepine dose as well.

17 Q. So would it be the case -- maybe this is obvious. But
18 did Mr. Young in this case, with Hope Rogers, just sort of do
19 what the last doctor was doing?

20 A. He actually did a little more. Yeah. He just kind of
21 picked up. He -- there's no evidence he did his own
22 investigation, and Klonopin and benzodiazepines aren't the
23 first choice of medicine for anxiety anyway.

24 Q. Did he actually discontinue what the last doctor was
25 doing, that codeine?

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1 A. He did. He stopped the Tylenol 3, and he started
2 something stronger.

3 Q. Right. He started her on hydrocodone for the first
4 time?

5 A. Yes, ma'am.

6 Q. Okay. And let's move down -- oh, I want to ask you
7 one other thing. If a patient comes in with a bunch of
8 complaints like this that are contradictory, don't make
9 sense, things like that, could that, itself, be a symptom
10 that a doctor such take into account in formulating a
11 diagnosis?

12 A. Yes, sometimes if things don't make sense, it kind of
13 always raises a red flag that maybe they are just abusing the
14 medicine, and they're coming up with kind of common
15 complaints. There are certain things -- certain complaints
16 that people will say that they have that they think will
17 yield them the controlled substance that they want.

18 Q. And what about -- is there anything about Ms. Rogers'
19 demographics that would create even a higher alert?

20 A. Right. So women are more likely to abuse prescription
21 drugs than men, and young people more likely than old. So
22 she's, like, right in the demographic where you have to be
23 very careful.

24 Q. Let's take a look at page 59 of this same exhibit.
25 All right. What are we looking at, at page 59? First of

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1 all, what kind of a document is this?

2 A. So this is a follow-up note from February 11th for the
3 same patient.

4 Q. And what is that -- so what's the follow-up note, I
5 guess?

6 A. This means it's not the history and physical. It's
7 just a note that's coming in for a follow-up of the same kind
8 of problems you already presented with.

9 Q. And what does -- what shows up here in the nurse's
10 note, what is that?

11 A. So the chief complaint is: Patient CO, complained of,
12 wrist pain in right arm, needs a shot, patient just found out
13 she is pregnant.

14 Q. All right. So, actually, I do want to go back briefly
15 to -- well, no, we'll just keep on rolling. All right. This
16 is in February of 2015. What is the patient on here?

17 A. So at some point, already, he's gone from hydrocodone
18 7.5 milligrams to Percocet 7.5 milligrams.

19 Q. And is that more potent? Is that another increase, I
20 guess?

21 A. Yes, ma'am, oxycodone is 1.5 times as strong as
22 hydrocodone.

23 Q. And then what do we see kind of down here in this
24 chart? Maybe we can pull that up.

25 A. Yeah, it's pretty small. But there's a line -- the

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1 typed line at the top says physical exam and the check mark
2 means examined and normal. So basically what he's indicated
3 is that he's examined this patient in entirety, her eyes,
4 ears, throat, neck, a breast exam, a pelvic exam, the whole
5 thing, and it's all normal.

6 Q. Based on what you know about this patient, is that
7 likely?

8 A. No, number one, she's pregnant, right? And so even at
9 early pregnancy, there would be changes you would recognize
10 on a pelvic exam.

11 Q. If a patient were pregnant and taking Percocet, in the
12 ordinary course of professional practice, what would you do?

13 A. So opioids are not -- are not a drug of choice in
14 pregnancy in any way. They're supposed to be used only if
15 absolutely necessary. And so the standard of care, if
16 someone is on opioids, is to switch them to either methadone
17 or Suboxone, and then there's a couple of reasons for that.
18 It's safer for the mom, and it's safer for the baby. And
19 babies, when they're born to a mom that's on opioids, have
20 neonatal abstinence syndrome, which is basically withdrawal
21 in the newborn. And if you switch them to methadone or
22 Suboxone, there's less severe withdrawal for the baby as
23 well.

24 Q. And is Suboxone often used to treat addiction?

25 A. It is.

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1 Q. Is it also known as buprenorphine?

2 A. Suboxone has buprenorphine with Narcan in it,
3 naloxone, yes, ma'am.

4 Q. Okay. So let's take a look at -- I'm going to see if
5 I can grab one of these exhibits here.

6 I'd like to take a look at Exhibit 22.

7 MS. PAYERLE: And let's page down one more, one
8 more, one more, and one more. Okay. Stop there. Give me a
9 second. Let's go down, I'm sorry, one more. And one more.
10 One more. One more. There we go. That's page 17.

11 BY MS. PAYERLE:

12 Q. Let's take a look at page 17 of this Exhibit 22. What
13 do we see here? We see -- what is this prescription for, for
14 Hope Rogers dated March 5, 2015?

15 A. So it's for Percocet, which is basically oxycodone
16 with Tylenol, 7.5 milligrams of oxycodone with 325 milligrams
17 of Tylenol, quantity of 90. And then on the bottom, it says
18 SIG and one by mouth three times a day.

19 Q. Did you see anything at all in Ms. Rogers' chart that
20 would indicate that this prescription for Percocet or
21 oxycodone was written within the ordinary course of
22 professional practice for a legitimate medical purpose?

23 A. No, and she was pregnant, and it would be
24 contraindicated, to be honest.

25 Q. In fact -- explain to the jury what you mean when you

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1 say indicated and contraindicated?

2 A. So indicated means there's a medical reason to
3 prescribe something. And contraindicated means that there's
4 not a medical reason to prescribe something. Opioids fall
5 into a class, and they rate pregnancy drugs in a certain
6 class, and they're not in a class that you should prescribe
7 unless you really, really, really have a good reason.

8 Q. All right. Let's take a look -- okay. Now, let's
9 note the date of this prescription is March 5, 2015, and how
10 many days' supply is this?

11 A. So if you're taking it three times a day and it's 90
12 pills, it's 30 days.

13 Q. So for March 5, 2015, she has a 30-day supply. Let's
14 take a look at page 9 of the same exhibit. And what do we
15 have here?

16 A. This is a prescription for hydrocodone or Lortab,
17 7.5 milligrams with 325 milligrams of Tylenol to take three
18 times a day, quantity of 90. And it was written only about
19 20 days or a couple of weeks after the previous prescription.
20 So now she's on two opioids during pregnancy, and if she's
21 taking them at the same time, it's a lot of Tylenol as well.

22 Q. And explain to the jury what you mean by the Tylenol
23 problem.

24 A. I mean, Tylenol is a pregnancy Class B, so it's
25 probably okay, but it's -- you still have to be so careful in

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1 pregnancy because we can't do good studies on pregnant women,
2 right? It's not ethical. So you can't give some pregnant
3 woman a drug and another pregnant woman not and see what
4 happens. So the studies are all information we gain from
5 what people report after they've had the baby which, of
6 course, is not reliable all the time.

7 MS. PAYERLE: All right. I've located the hard
8 copy of this. So I think it will be a little easier. Let's
9 move down one more page. Well, I thought I had it.

10 All right. I'm just going to use the Elmo.
11 There we go.

12 BY MS. PAYERLE:

13 Q. All right. Let's take a look at these prescriptions
14 dated -- what's the date; do you see?

15 A. April 23rd.

16 Q. All right. So what -- what did Mr. Young prescribe to
17 Hope Rogers on April 23, 2015?

18 A. The top prescription is for Lortab 7.5, 325, and now
19 instead of 90, it's 120. So it's an increase in dose. And
20 then the bottom prescription is Xanax or alprazolam,
21 1 milligram three times a day, quantity of 90. And then the
22 Phenergan is a medicine for nausea, but it's not a controlled
23 substance. And the very bottom is ProAir, which is an
24 inhaler for asthma.

25 Q. All right. So for this -- actually, I don't remember

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1 if I asked you, Doctor, for the March 25th prescription that
2 we just saw, was that prescription for hydrocodone within the
3 course of professional practice for a legitimate medical
4 purpose?

5 A. No, ma'am, especially because she was pregnant.

6 Q. And how about this one for Lortab?

7 A. Absolutely not. Now he's increasing it. He's putting
8 both the patient at risk increase for overdose. He's putting
9 the child at risk for worsening neonatal abstinence syndrome,
10 which is kind of ugly, to be honest.

11 Q. Well, go ahead and describe for the jury what is
12 neonatal abstinence syndrome look like?

13 A. When a baby is born with neonatal abstinence, the
14 first, maybe day or two, may be okay and they are monitoring
15 it, and then they have to move it to the special nursery.
16 And they can have seizures, tremors, they're irritable, they
17 don't eat well, they don't sleep well, they're difficult to
18 feed, and developmentally, they're usually behind the other
19 babies for at least a year, and then they tend to catch up.
20 But it's not a pretty thing and results in long hospital
21 stays for the babies.

22 Q. What about the Xanax?

23 A. Same. So benzodiazepines are actually Class D in
24 pregnancy, which is -- there's absolutely no indication to
25 prescribe a benzodiazepine in the first trimester of

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1 pregnancy for any reason ever. There have been studies that
2 show that the babies can have heart defects, and they can
3 also have cleft palate and other kind of facial defects. And
4 so there really is no indication of prescribed
5 benzodiazepines in the first trimester of pregnancy. The
6 first trimester being when all the organs are being formed.

7 Q. All right.

8 MS. PAYERLE: Let's take a look at -- go back to
9 Exhibit 21. And that means, sorry, we have to switch back.
10 Exhibit 21 at page 98.

11 MS. SILVERBERG: Page 98?

12 MS. PAYERLE: 98.

13 BY MS. PAYERLE:

14 Q. We were just talking about a prescription for -- where
15 he increased Lortab and added Xanax on April 23, 2015, and I
16 apologize. We're just going to move on to the next
17 prescription.

18 MS. PAYERLE: We can take that down. All right.
19 Let's go back to this. And can we go back. I'm sorry. I'm
20 going to have to be moving back and forth.

21 BY MS. PAYERLE:

22 Q. All right. Let's go to the next prescription in May.
23 What is this on May 20, 2015?

24 A. It's Lortab 7.5 to take four times a day, and the
25 lower one is Xanax, 1 milligram for three times a day.

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1 Q. All right. And, again, Dr. Aultman, were these
2 prescriptions, either one of them, written in the ordinary
3 course of professional practice for a legitimate medical
4 purpose?

5 A. No, and they were dangerous for the patient and the
6 baby.

7 Q. For the same reasons we discussed already?

8 A. Yes, ma'am.

9 Q. Okay. And these were in May. Here we go. These were
10 in May of 2015; is that right?

11 A. Yes, ma'am.

12 MS. PAYERLE: All right. Now let's take a look,
13 sorry. We can go back to 419 to Exhibit 21 and take a look
14 at page 118.

15 THE WITNESS: Okay.

16 BY MS. PAYERLE:

17 Q. All right. Are you familiar with this kind of
18 document in the patient record?

19 A. Yes, ma'am.

20 Q. And is this document a toxicology report for Hope
21 Rogers?

22 A. Yes, ma'am.

23 Q. Tell the jury just about this kind of document, how it
24 would figure into your analysis.

25 A. Right. So at the top, this is kind of demographic

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1 information: her name, her date of birth, and it's urine.
2 And then the important part to look at is right there, the
3 medications. So that's the medications that you're supposed
4 to see in her urine. And then they just -- the validity,
5 this is to make sure that someone is not bringing fake urine.
6 And then the results are at the bottom.

7 Q. What were the results of Hope Rogers' drug screen on
8 April 29, 2015, which was, I guess, what, like, the week
9 before the -- or a couple of weeks before the last
10 prescription was written?

11 A. Yes, ma'am. So she was supposed to be on alprazolam
12 and hydrocodone, and you can see that she does have
13 hydrocodone in her system, which is appropriate.
14 Hydromorphone is what hydrocodone is metabolized to, so that
15 is appropriate as well. But she also has oxycodone in her
16 system, and she's not prescribed that.

17 Q. How much oxycodone does she have in her system?

18 A. It's -- it lists as very high.

19 Q. And is that a red flag itself?

20 A. It is a red flag that she's taking -- she's getting it
21 from somewhere. She doesn't have a prescription and it's a
22 lot, and she's pregnant.

23 Q. Is there another reason that there might be kind of
24 off the charts amounts of a drug in somebody's system?

25 A. Yes. Sometimes if they're trying to fake a drug

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1 screen, if they might save one pill or keep one back and then
2 they spike their urine with it. Sometimes you can tell by if
3 they check the metabolites. Like, if there was oxycodone
4 present but then there was no oxymorphone, that might be an
5 indication that it wasn't real.

6 Q. And we might see an example sort of specifically
7 there. Here, where do you see that it's, like, a lot, sort
8 of a lot of oxycodone? How can you tell?

9 A. So the upper limit of normal on this is 500, and it
10 says greater than 500. So the range here is 20 to 500. So
11 that's a lot.

12 MS. PAYERLE: All right. Let's go back to the
13 Elmo. And let me get rid of these little marks.

14 BY MS. PAYERLE:

15 Q. And what are we looking at here at Exhibit 22?

16 A. This is a prescription for hydrocodone 7.5 with 325
17 milligrams of Tylenol. It says at the bottom SIG 1 PO QID,
18 which is four times a day.

19 Q. And is that an increase in terms of potency or
20 quantity since the May 20th prescription?

21 A. I think it was. I think it was 90 to 120.

22 Q. Or was it -- let's see. I want to make sure we got
23 that right. We may not.

24 A. It was increased from her initial prescription, I know
25 that. It was the same.

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1 Q. It was the same there? So that wasn't an increase.
2 All right. And then let's go back to the trial directory.
3 The patient chart, Exhibit 21, and look at Exhibit 113, or
4 sorry, page 113 of that exhibit. And what do we see here?

5 A. So this is another urine drug screen, and she is
6 supposed to be on Xanax and hydrocodone. And you can see
7 here that her hydrocodone level is very, very high, and the
8 metabolite is hydromorphone, which is also really, really
9 high.

10 Q. And does that mean anything in particular to you?

11 A. Yeah, it's concerning that she's taking more than
12 prescribed and she's pregnant, and it's dangerous for her and
13 the child.

14 Q. And do you see a stamp there in the middle?

15 A. It says, we'll discuss these at your next office
16 visit.

17 Q. Did you come to recognize that signature?

18 A. Yes.

19 Q. Whose is that?

20 A. That is Jeffrey Young.

21 Q. All right. Let's take a look then at -- and so I
22 think the prescription we just saw written on June 19, 2015,
23 so after this drug screen came back, was that prescription
24 written within the ordinary course of professional practice
25 for a legitimate medical purpose?

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1 A. No. And the appropriate thing to do would be to put
2 her on Suboxone or methadone or refer her to someone that
3 would because she's got a problem.

4 Q. So at this point, you're convinced?

5 A. Absolutely.

6 Q. And how long ago in our conversation were you
7 convinced?

8 A. From the -- I mean, I've reviewed these a lot and in a
9 pregnant person, there's just -- it's absolutely inexcusable
10 to prescribe these kinds of medicines.

11 Q. And is this -- when I ask usual course of professional
12 practice for a legitimate medical purpose in Hope Rogers'
13 case, I mean, that's legal jargon. Can I ask you, is it even
14 close?

15 A. It's really not. And he's really harming this person,
16 right? Because she is at risk if she's on opioids for a
17 preterm delivery, for a stillbirth, for a low birth weight
18 baby, and for overdose. And the baby is at risk for, you
19 know, dying in utero and such. And so it's not just bad
20 medicine, it's harmful. He's really hurting these people and
21 could have had a very bad outcome.

22 Q. Let's take a look now at what we have on the Elmo.
23 And is this -- do we have here what -- what is this
24 prescription on what date?

25 A. This is a prescription for Percocet 7.5 with 325 of

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1 Tylenol written on July 17.

2 Q. And is this an increase from the last one?

3 A. It's an increase from hydrocodone, yes, ma'am.

4 Q. Okay. And is this prescription, given the context
5 that we've been discussing, was this written in the ordinary
6 course of professional practice for a legitimate medical
7 purpose?

8 A. Absolutely not.

9 Q. All right. Let's take a look at what happens to
10 Ms. Rogers post pregnancy. And take a look back at the
11 patient chart at page -- let's see, Exhibit 21 at page 108.

12 All right. Is this after Ms. Rogers delivers her
13 baby?

14 A. It looks like it was October, so, yes.

15 Q. All right. And what do we see here on this toxicology
16 scene?

17 A. So at this time, she's supposed to be taking
18 alprazolam and Percocet, which is oxycodone with
19 acetaminophen, and it looks like the Xanax was detected. So
20 she's taking it appropriately although the concentration is
21 very high. And she's taking the oxycodone. You can see
22 there. So she's taking that although, again, the
23 concentration is rather high of the oxycodone. But she also
24 has hydrocodone in her -- she has hydrocodone in her system,
25 which she's not supposed to be taking, right? So it

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1 shouldn't be there.

2 But then the curious thing about the Xanax or the
3 alprazolam is that the Xanax is positive, but the metabolite
4 is negative, right? And so there's no way that that can
5 happen if it's a real true sample, right? Because your body
6 is always going to be metabolizing it. So with the Xanax,
7 anyway, it looks like she probably spiked her urine with it
8 and that's why it's positive for Xanax, but it doesn't have
9 the metabolite that your body would naturally make. It would
10 come out in your urine.

11 Q. Okay. And I want to see if we can -- maybe we can
12 blow up this summary of qualitative results part here. And
13 if you could just teach the jury kind of what -- what you
14 were seeing in terms of high concentration, no metabolites?

15 A. Okay. So the Xanax she was taking, so it's positive
16 in her urine, which is consistent with her prescription. But
17 it, naturally in your body, alprazolam is metabolized to
18 hydroalprazolam, hydroxyalprazolam. So if you're truly
19 taking the Xanax, this should be positive here too. You
20 should have metabolite in your urine, and there's none, which
21 is indicating that she's probably spiking her urine with a
22 pill that she's kept left over.

23 Q. And, again, we have a very -- it seems like a very
24 high level of oxycodone as well; is that right?

25 A. It's a very high level of oxycodone. If you see the

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1 upper range of normal is 2500, and then again, the
2 hydrocodone is present, and she's not prescribed that.

3 Q. Let's take a look at page 103 of the same patient
4 record. And look at -- the date is January 17, 2016.

5 MS. PAYERLE: And let's blow up the bottom two
6 boxes here. There we go. Now, let's go ahead and blow up
7 both boxes. Thank you.

8 BY MS. PAYERLE:

9 Q. Okay. What does this -- this particular test result
10 says under notes that caught your attention?

11 A. Right. So this one, they actually say, hey, pay
12 attention, the drug is positive, but there's no metabolite,
13 which is not normal. That's not consistent with how a drug
14 would show up in your urinalysis if you put it in your mouth
15 and it came out in your urine. So the Xanax is
16 metabolized -- sorry, the alprazolam is metabolized to
17 hydroxyalprazolam, and there's no metabolites. And the same
18 with the oxycodone to the oxymorphone.

19 Q. So what does that indicate happened here?

20 A. That she was spiking her urine with medication.

21 Q. Would any prescriptions written to her during this
22 time be consistent with the ordinary course of professional
23 practice for a legitimate medical purpose?

24 A. Definitely not. She's clearly abusing, diverting,
25 selling, doing something with her medicine, but she's not

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1 taking it in the prescribed manner.

2 MS. PAYERLE: Okay. Let's pull this down.

3 BY MS. PAYERLE:

4 Q. I'm going to show you -- the jury has heard about a
5 patient named Aaron Beaver, and so I'm going to show you his
6 medical record. It's a 59-page document. I promise we won't
7 go through all 59 pages.

8 A. Okay.

9 Q. I that -- do you recognize that?

10 A. Yes, ma'am.

11 MS. PAYERLE: We move to admit.

12 THE COURT: Okay. We'll go ahead and receive the
13 documents. I believe the Exhibit Number 98.

14 (Exhibit 98 marked and received.)

15 THE COURT: What is the patient's name again?

16 MS. PAYERLE: Aaron Beaver. B-E-A-V-E-R.

17 BY MS. PAYERLE:

18 Q. Let's take a look at page 39 of what is now Exhibit
19 98. What did you see here that struck you?

20 A. So this is the intake visit or the new patient visit
21 for Mr. Beaver, and he's very honest. He says that he's
22 addicted to heroin, morphine, and that, you know, he's in,
23 basically, a crisis. He wants to use, and he's having
24 withdrawal symptoms.

25 Q. At that point, would any prescriptions of opioids,

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1 other than addiction medication, be within the course of
2 professional practice for a legitimate medical purpose for
3 Aaron Beaver?

4 A. Absolutely not.

5 Q. Let's take a look at page 30 of this patient file.
6 And do we have, at page 30, a -- another visit by Aaron
7 Beaver on 10/10? Oh, it looks like it was canceled?

8 A. No, it looks like the 9/21 was struck through as
9 canceled, but maybe he was there on 10/10, I think.

10 Q. Okay. The next page, sorry.

11 A. It's what it looks like.

12 Q. And under Plan, did Mr. Young prescribe anything to
13 Aaron Beaver on that date?

14 A. Yes, ma'am. It looks like he gave him a shot. From
15 what I figured out, this is a combination of steroids and
16 anti-inflammatory medicine. And then he prescribes Dilaudid,
17 which is a high potency opioid. It's about four times as
18 strong as morphine, so basically, it's about 8 milligrams of
19 morphine three times a day.

20 Q. Would Aaron Beaver's back pain, under the
21 circumstances with what -- in which he presented to Mr. Young
22 as addicted and struggling with addiction, would this
23 prescription be within the course of professional practice
24 for a legitimate medical purpose?

25 A. No, it's actually just really tragic. They've just

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1 put in the hands of an addict a very addictive substance, and
2 he's been clean, we think, since, you know, maybe a couple --
3 maybe eight months, six months, hard to know from the chart.
4 But so you've just basically given him a ticket to go right
5 back down the path, which is really tragic.

6 Q. Let's go to page 28 of the same patient file. And
7 this is 2 milligrams of Dilaudid; is that right?

8 A. Yes, ma'am.

9 Q. What's the date for 28?

10 A. This date is October 12, so just a couple of days
11 later.

12 Q. And let's go to the next page. What happens here?

13 A. So at the next visit, which is just two days later,
14 he's doubled the dose of Dilaudid and given a quantity of 15.
15 So the patient has already used up, you know, a supply, which
16 should have been, if it was just an acute episode, it's gone,
17 and now he's giving him more and a higher dose.

18 Q. Is anything about this legitimate medicine?

19 A. Definitely not.

20 MS. PAYERLE: We can pull that down.

21 BY MS. PAYERLE:

22 Q. Okay. As we go on to the next patient, I want you
23 to -- I just want to clarify something. We already are
24 talking about a mouthful, the usual course of professional
25 practice for legitimate medical purpose. When we're talking

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1 about the usual course of professional practice here, are you
2 talking about for this -- for the State of Tennessee, for
3 where we are?

4 A. Yes.

5 Q. And does it differ much from anywhere else?

6 A. No, ma'am. The rules and regulations in most state
7 medical boards are very similar.

8 Q. But, you know, would it -- and I guess -- I guess
9 there's a question of from what we've observed, would this be
10 the usual course of professional practice anywhere?

11 A. No, ma'am.

12 Q. Okay. But it is also not in the State of Tennessee;
13 is that right?

14 A. Definitely not.

15 Q. Okay. Let me show you what we've marked as 404. This
16 is a 54-page document. Is this a medical file for a patient
17 who's listed there as Katie Crowder?

18 A. Yes, ma'am.

19 MS. PAYERLE: The Government moves to admit.

20 THE COURT: That will be Number 99.

21 (Exhibit 99 marked and received.)

22 BY MS. PAYERLE:

23 Q. And, Dr. Aultman, in the course of working on this
24 case, did you learn that Katie Crowder was actually an
25 undercover name for an officer working on an operation?

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1 A. Yes, ma'am.

2 Q. But there's a patient record for her that was
3 recovered and sent to you?

4 A. Yes, ma'am.

5 Q. All right. Let's take a look at page 9 of Exhibit 99.
6 What is page 9?

7 A. So this is a Tennessee prescription monitoring program
8 printout, and it's what you check in the office to see if
9 your patient is getting a prescription anywhere else. At the
10 time, you just check in the State of Tennessee. Now you can
11 actually check multiple states, which is really convenient.
12 And so you can see, it's kind of reverse chronological order,
13 but you can see there is June and then through September
14 of 2016.

15 Q. And let's go to the next page just to see where the
16 end is. Was that June entry the first entry on her PMP?

17 A. Yes, ma'am.

18 Q. And who are the -- are there any other prescribers
19 besides Jeffrey Young listed for this person?

20 A. No, the prescribers are just him right there.

21 Q. All right. Let's go back up to the front page. So
22 who was the first person to prescribe Katie Crowder opioids
23 of any kind in the State of Tennessee?

24 A. Jeff Young on June the 6th, he gave her hydrocodone,
25 5 milligrams, a quantity of 60 so, like, twice a day.

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1 Q. So here was he just picking up what some other doctor
2 was doing, or was he --

3 A. I don't think so. I think it was -- she was opioid
4 naive, according to our printout and according to her
5 history.

6 Q. And could you explain to the jury what opioid naive
7 means.

8 A. That means you've never taken opioids before.

9 Q. Could you explain what the impact of an opioid on an
10 opioid naive person is.

11 A. So 5 milligrams twice a day is a pretty healthy dose.
12 I mean, that's definitely a good acute pain pain relief dose
13 but for acute pain, you wouldn't need it for the whole month.

14 Q. All right. And so the quantity is high?

15 A. So the MME for that is 10 MME a day.

16 Q. Now, do you watch some videos where you could see
17 Mr. Young in action interacting with the patient known as
18 Katie Crowder?

19 A. Yes, ma'am, I watched the videos.

20 Q. Okay. And do you remember the -- in the sort of first
21 video with Mr. Young, she said that she didn't fill an
22 earlier tramadol prescription?

23 A. Correct.

24 Q. All right. What's your opinion about that?

25 A. So if you lay out a plan of care for a patient and

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1 they don't want to follow it, then you don't have any trust,
2 right? And so that's not a good relationship from the
3 beginning. And it would be a sign to me that they just want
4 an opioid, that they're fishing.

5 Q. In that video, she says she's gotten a hydrocodone
6 before from a friend. Do you have any opinions about that?

7 A. That's a common thing that people say, unfortunately,
8 and I usually try and remind them, you know, that's illegal,
9 right, to take someone else's medication. And it's also a
10 sign that she's fishing or shopping for a specific
11 medication.

12 Q. And in the video, did you hear Mr. Young tell her,
13 hey, you probably shouldn't just take drugs from other
14 people?

15 A. I did not hear him say that.

16 Q. Let's look at page 46 in this medical record. And is
17 this the sort of intake form that corresponds to that date?

18 A. Yes, this is the follow-up visit, and he says here,
19 has taken hydrocodone in the past.

20 Q. Does he say that she had taken it, like, from a
21 friend?

22 A. No, he just says she's taken it.

23 Q. So the chart isn't complete with respect to that bit
24 of information?

25 A. No, it's not a complete history for sure.

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1 Q. And, in fact, he had information that he didn't put in
2 the chart?

3 A. Exactly.

4 Q. Does he document that it -- that he told her any risks
5 of taking pills?

6 A. It doesn't document either here or on the next page
7 that goes with the visit that he counseled her in any way
8 about the risk of starting opioid therapy.

9 Q. And you saw the video. Did he counsel her?

10 A. No, ma'am.

11 Q. All right. But what's interesting here is in this box
12 below.

13 MS. PAYERLE: Ms. Silverberg, if you could blow
14 that up.

15 BY MS. PAYERLE:

16 Q. Remind the jury, what does this line here under
17 Normal, what does that indicate that -- that Mr. Young is
18 saying that he did?

19 A. So this is the review of systems part that we talked
20 about where you basically go head to toe and say, do you have
21 blurry vision, double vision, can you see anything, do you
22 have throat pain, neck pain, and you go through every organ
23 system, and he clearly didn't do that on the videos.

24 Q. But he documented that he had?

25 A. He did.

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1 Q. Okay. If Mr. Young was practicing in the ordinary
2 course of professional practice, what would he have done with
3 the information that Katie Crowder was opioid naive but had
4 taken hydrocodone from a friend and didn't fill her tramadol
5 prescription?

6 A. So sort of what would I do if I were the physician in
7 that position?

8 Q. What would be the ordinary course of professional
9 practice?

10 A. Right. So you would counsel the patient. You would
11 talk to them and document it in the chart and say, hey, like,
12 I think you may have a problem here, let's talk about this.
13 It's okay if you have a problem. I can help you with that,
14 but we need to be honest and have a trusting relationship if
15 you want me to help you. And I definitely wouldn't prescribe
16 opioids.

17 Q. Do you remember, in this visit, when Mr. Young asked
18 for an MRI to put in the chart, you know, just because he
19 needs the piece of paper?

20 A. Yes, ma'am.

21 Q. Did you have any opinions about that?

22 A. That's a very common thing that I see when I'm
23 reviewing records for things that are not appropriate is they
24 think if you just put stuff in there, if I just have an X-ray
25 or a piece of paper that says I have an MRI, it will make it

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1 look like I tried.

2 Q. And in the video, she said the radiologist told her
3 nothing was wrong. Does that change your -- do anything to
4 your opinion about the appropriateness of this prescription?

5 A. No. Well, I mean, it makes it worse, I guess. So we
6 know she didn't really have back pain because she didn't
7 really have back pain.

8 Q. At the very least, the MRI doesn't demonstrate any
9 problem?

10 A. Yes, ma'am.

11 Q. And after learning the MRI didn't demonstrate any
12 problem, did he then follow up with, hey, maybe we should get
13 different testing to figure out what's actually wrong with
14 you?

15 A. He did not.

16 Q. Let's take a look at page 45 of this exhibit. The
17 prescription he wrote for her, is this prescription that
18 we're looking at within the course of professional practice
19 for a legitimate medical purpose in the State of Tennessee?

20 A. No, ma'am, it's not.

21 Q. In the next video in July of 2016, Ms. Crowder tells
22 him that the pain is worse at night when she lies down. Do
23 you remember that?

24 A. Yes, ma'am.

25 Q. Do you have any opinions about that?

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1 A. That's kind of -- it kind of contradicts what most
2 people have when they have low back pain. Usually, it's
3 worse when they're moving around, and it's better with rest.

4 Q. And let's say -- let's look at page 41 of this
5 exhibit. What do you see here in the chief complaint?

6 MS. PAYERLE: Let's blow up this chief complaint
7 down to current medications. Keep going, keep going, stop.

8 THE WITNESS: So, basically, it says, patient's
9 here for follow-up and requesting refills, has a history of
10 low back pain, states that the hydrocodone wears off too
11 soon, can she try something else. And it looks like he
12 wrote, having breakthrough pain. And it looks like he's
13 trying to draw a pain scale, and it looks like maybe he wrote
14 9 or 7, 7 out of 10.

15 BY MS. PAYERLE:

16 Q. Seven, okay. And then --

17 MS. PAYERLE: Let's back out of that.

18 BY MS. PAYERLE: And do you --

19 MS. PAYERLE: Let's go to the next page.

20 BY MS. PAYERLE:

21 Q. What does -- what does Mr. Young do on this visit?
22 What does he prescribe her?

23 A. So he adds a fentanyl patch at 50 micrograms.

24 Q. Explain to the jury what your -- explain to the jury,
25 I guess, what went through your mind when you saw that?

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1 A. It's really actually, like, unbelievable. There's no
2 medical indication to give a fentanyl patch at 50 micrograms
3 or any fentanyl patch to a healthy 20- or 30-year-old that
4 has what you think is musculoskeletal pain. Her MME, before
5 this visit, was two Lortabs a day, right? So it was an MME
6 of 10; 5 plus 5 is 10. The MME of a 50 microgram patch is
7 120.

8 So he has taken her from 10 to 120 milligrams of
9 morphine and, essentially, if this young woman, who is small
10 anyway, put this patch on, she would be dead. Like, she
11 wouldn't be back. Like, she would just fall asleep, stop
12 breathing, and she would die because you just cannot use
13 fentanyl in that manner. It's not how it was meant to be
14 used.

15 Q. Dr. Aultman, were either of these prescriptions,
16 either the fentanyl that we see here, the hydrocodone we saw
17 earlier, or the hydrocodone that were written in this visit
18 prescribed within the ordinary course of professional
19 practice for a legitimate medical purpose in the State of
20 Tennessee?

21 A. No, ma'am.

22 Q. And she, I believe, goes back in August?

23 MS. PAYERLE: Let's take a look at page 34.
24 Sorry. All right. So let's go to 37.

25 BY MS. PAYERLE:

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1 Q. You see here that there's a documented pain range of 5
2 out of 10. Do you see that?

3 A. Yes, ma'am.

4 Q. And what else was written here?

5 A. Looks like it says, doing better on fentanyl patch.

6 Q. Again, does Mr. Young mark as though he has completely
7 examined her, all systems?

8 A. Yeah, he marks through that he's questioned all the
9 systems, and they're negative.

10 Q. And did he do that in the video?

11 A. No, ma'am.

12 Q. All right.

13 Ms. PAYERLE: Let's go to the next page. Go to
14 the next one, sorry. There's a weird blank. Just go to the
15 next one.

16 MS. SILVERBERG: This is it.

17 MS. PAYERLE: Oh, that's it. I'm sorry. You've
18 got it. Thank you.

19 BY MS. PAYERLE:

20 Q. All right. What happens here with respect to her
21 prescriptions?

22 A. So, you know, he actually increases the fentanyl from
23 50 to 75. And just to give an example, the last patient I
24 had with a 75-microgram fentanyl patch, she was, like, a
25 34-year-old in the hospital with cervical cancer that had

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1 spread throughout her organs and her bowels had ruptured.
2 And we were trying to get her home so she could spend some
3 time with her kids, and we didn't want her to have to keep
4 taking medicine. But, like, that's an appropriate use of
5 fentanyl is just a horrific, horrible cancer that is, like,
6 killing somebody, and they need to have a little bit of time
7 with their family at home without being in pain.

8 Q. And if he prescribed her fentanyl and hydrocodone on
9 this visit as well, would those prescriptions be in the
10 ordinary course of professional practice for a legitimate
11 medical purpose in Tennessee?

12 A. Absolutely not.

13 Q. And, actually, let's take a look at page 36. Page 36.
14 Sorry. Is that -- is that the prescription?

15 A. Yes, ma'am.

16 Q. Next, do you remember a visit in which there were two
17 women that came to Mr. Young's office?

18 A. Yes, ma'am.

19 Q. And he was talking about a Halloween party?

20 A. Yes, ma'am.

21 Q. All right. Tell the jury your impressions of that
22 visit.

23 A. So I think, like, all the video visits, the actual
24 medical conversation is almost nothing. Right. There's a
25 significant portion of time discussing other things. And

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1 it's okay to discuss other things. You know, my patients
2 know about my kids and all kind of stuff, but you have to
3 also remain professional, and you also have to do an
4 appropriate history and physical, which were not done.

5 Q. And let's take a look at page 26 of the patient
6 record. Also, before I move on, though, was it -- like, is
7 it normal for two girlfriends to show up together at a
8 doctor's visit both looking for pain drugs?

9 A. No. Seeing a husband, wife, or a couple together or
10 parent-child is pretty normal, but friends is kind of not
11 typical at all, and suspect.

12 Q. Okay. And then did you remember the other undercover
13 officer mentioning something about landing -- falling and
14 landing on her lower back?

15 A. Yes, ma'am.

16 Q. Okay. What were your thoughts on that explanation of
17 why she had pain?

18 A. I think it's really tricky to fall and land on your
19 lower back unless you land on something. It's just a really
20 weird history that should have prompted further questioning,
21 like, what do you mean, like, how do you land on your lower
22 back, unless it's like landing on a curb or, I don't know,
23 something.

24 Q. Were the prescriptions that were written in this video
25 within the course of professional practice for legitimate

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1 medical purpose in the State of Tennessee?

2 A. No, ma'am.

3 Q. And that is in October of 2016 to Katie Crowder.

4 All right. And then also at that visit, was an
5 undercover Kristina Norton, and she was the one we were
6 talking about landing on her lower back?

7 A. Yes, ma'am.

8 Q. Okay. Were the prescriptions written to Kristina
9 Norton who were written -- sorry, for legitimate medical
10 purpose in the ordinary course of professional practice in
11 the State of Tennessee?

12 A. No, ma'am. In fact, she just said that she took some
13 Percocet, I think, from her mom, and then that was what she
14 was prescribed.

15 Q. So was Mr. Young continuing care from another
16 physician?

17 A. No.

18 Q. During the video, she says, I've taken some tabs and
19 sometimes I turn to smoking. What do -- what are tabs? Do
20 you know?

21 A. I think tab usually refers to a Lortab.

22 Q. Would it raise a red flag if a patient told you they
23 took tabs?

24 A. Yeah, a patient talking in kind of street lingo about
25 medication is always concerning.

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1 Q. Let's take a look at -- all right. In the next visit,
2 you saw, I believe, Kristina Norton went back by herself.

3 MS. PAYERLE: Can we look at Exhibit 70? And I
4 don't know what our number is. That's it. Yeah.

5 BY MS. PAYERLE:

6 Q. Okay. What are looking at here?

7 A. This is -- appears to be a copy of -- let's see, right
8 here, an X-ray of her lumbar spine, which is the very low
9 part of your back, and it says two or three views, which is
10 the common way that it's done. And then the history is back
11 pain, and then this is kind of the radiologist stuff, so to
12 speak. And then this is -- the impression is basically the
13 result, and it says, no acute osseous, which means bony
14 findings.

15 Q. What does that mean?

16 A. It, basically, is a normal X-ray. She was a little
17 constipated right here. That's all.

18 Q. And was there anything on that X-ray that would
19 suggest that a prescription for oxycodone 10 milligrams would
20 be within the course of professional practice for a
21 legitimate medical purpose?

22 A. Absolutely not.

23 MS. PAYERLE: Let's take a look at page 71. Or
24 sorry, Exhibit 71. Let's go to the next page. There it is.

25 BY MS. PAYERLE:

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1 Q. Okay. At the top of the screen there, this is a
2 receipt. Do you see where there was an oxycodone
3 10 milligrams prescription written by Jeff Young to Kristina
4 Norton?

5 A. Yes, ma'am.

6 Q. Okay. So is that your opinion about this prescription
7 that it was not appropriate?

8 A. Yes, ma'am.

9 MS. PAYERLE: All right. We have seen --
10 actually, let me -- let me just do -- I'm going to do one
11 more, Judge, and I promise it's the last one.

12 BY MS. PAYERLE:

13 Q. I'm going to show you a document that we've marked
14 413. And it is 61 pages. And it's a patient record for a
15 patient named Daphne Montoya.

16 A. Okay.

17 Q. And are you familiar with this document?

18 A. Yes.

19 MS. PAYERLE: Move to admit.

20 THE COURT: 100.

21 (Exhibit 100 marked and received.)

22 BY MS. PAYERLE:

23 Q. Let's take a look at page 53 of Exhibit 100. In
24 Daphne Montoya's file, did you find this document?

25 A. Yes, ma'am.

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1 Q. All right. Explain to the jury -- I mean, you can
2 read it if you want, but explain to the jury if you want to
3 summarize what was happening here?

4 A. Okay. So the telephone notes that they took at
5 various times were usually on a yellow piece of paper. They
6 kind of looked like this. And so there was a problem with --
7 it says, Jeff's Schedule II narcotics. And if you just read
8 through, it says, the patient here, Daphne Joyner Montoya,
9 filled oxycodone 10 four times a day, quantity of 120, and
10 she paid cash under her name Daphne Joyner. But then Daphne
11 Montoya filled oxycodone, the same basic prescription, and
12 she was using her insurance. So, basically, the person is
13 using maiden/married name, paying one with cash, using her
14 insurance for the other one to get double the quantity of
15 medicine.

16 Q. And would that -- were both of those written by Jeff
17 Young?

18 A. Yes, ma'am.

19 Q. So one in one name, Daphne Joyner, and the other was
20 written in the other name, Daphne Montoya?

21 A. Yes, ma'am.

22 Q. Is there any red flags here?

23 A. It's completely inappropriate. I don't know how else
24 to say it, it's wrong. It's not right. It's putting a
25 patient in a position where they easily could abuse or sell

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1 the medication. Oxycodone has a huge street value. That's a
2 pretty tight little income if you're selling that every day.
3 There's just a lot of wrong things about it.

4 Q. What would be the appropriate way -- if Mr. Young were
5 actually practicing medicine, what would be the appropriate
6 way to deal with this?

7 A. So, you know, you want to say, oh, I just fired a
8 patient. But you'd bring them in, you'd say, look, I know
9 you're doing this. You obviously have a problem or you're
10 selling it and you just need to come clean and tell me.
11 Like, if you need help, if you're addicted to this stuff, we
12 can do that, but you can't just keep going as you are as if
13 nothing happened.

14 Q. Would it be appropriate medical practice to engage in
15 a sexual relationship with this patient?

16 A. No, ma'am.

17 Q. What if you also hired this patient as your front desk
18 employee; would that be appropriate way to deal with this?

19 A. No, ma'am.

20 Q. Does the fact that -- would the fact --
21 hypothetically, if Mr. Young had employed this Daphne
22 Montoya, was engaged in a sexual relationship with her and
23 was writing her prescriptions under two different names,
24 would that make it better or worse?

25 A. That definitely makes it worse.

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1 Q. Okay. Generally -- and we can -- let me put that
2 down. I have some just general questions about some patients
3 that you may have looked at without, you know, slogging
4 through the records. Did you review a record for a gentleman
5 named Jay Green, who was a police officer listed on his
6 intake form?

7 A. Yes, ma'am. He had some kind of foot pain and maybe a
8 fracture.

9 Q. How would a fentanyl patch impact the ability of a
10 police officer to do his job safely?

11 A. A fentanyl patch would not be indicated to be used in
12 anyone that had any kind of firearm and especially not for
13 foot pain. It's completely inappropriate.

14 Q. Did you find that -- did you form an opinion as to the
15 prescriptions written for Jay Green?

16 A. They were not written in the unusual course of medical
17 practice for legitimate medical purpose.

18 Q. In the State of Tennessee?

19 A. In the State of Tennessee.

20 Q. All right. And how about a patient, Tricia Stansell;
21 do you remember reviewing her file?

22 A. I do.

23 Q. Were there any prescriptions written to Tricia
24 Stansell in the ordinary course of professional practice for
25 a legitimate medical purpose in the State of Tennessee?

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1 A. No, ma'am, there were not.

2 Q. How about Keith Moffit, were there any prescriptions
3 written to Keith Moffit in that -- that meet the standard I
4 just said?

5 A. No, ma'am.

6 Q. And how about Bethany Pusser?

7 A. No, ma'am.

8 Q. Not her either? How about Cyndal Story?

9 A. No, ma'am. And she actually had all kind of stuff in
10 her initial drug screen that when she was addressed about it,
11 she actually laughed.

12 Q. She laughed?

13 A. She laughed.

14 Q. And what would -- how would a practitioner, who was
15 actually practicing medicine, deal with that?

16 A. Again, you would bring them in and say, you obviously
17 have a problem. I can help you, but you have to be honest.

18 Q. Would you continue trying to -- would a practitioner
19 continue trying to have sex with Cyndal Story under those
20 circumstances?

21 A. Probably not, no.

22 Q. All right. How about Amy Sanders?

23 A. No, nothing was written for legitimate medical purpose
24 in the usual course of professional practice in the State of
25 Tennessee.

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1 Q. Okay. Now, I've asked you about specific -- some
2 specific patients. We've gone through specific charts. Were
3 these examples you identified, were they in this case one
4 offs or did you see these patterns repeated throughout your
5 review?

6 A. The patterns were definitely repeated over and over
7 and over, and I think I reviewed well over 20 charts.

8 Q. And in those, were you able to see any examples to
9 suggest that Jeffrey Young was prescribing opioids in the
10 course of professional practice for the State of Tennessee?

11 A. No, ma'am.

12 MS. PAYERLE: Just one moment, please, if I
13 could.

14 BY MS. PAYERLE:

15 Q. Okay. Just one more quick series of questions: Sort
16 of bad things sometimes happen in the personal lives of
17 doctors like yourself?

18 A. Yes, ma'am.

19 Q. So they have people die and divorces and things that
20 happen all the time, right?

21 A. Yes, ma'am.

22 Q. When something bad happens to a medical professional
23 that impacts their judgment or their ability to practice
24 medicine, what are their obligations in the ordinary course
25 of professional practice?

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1 A. Their obligations are to get help. And I know in
2 Tennessee and in most states, they have a method to get that.
3 They don't want practitioners out there depressed, suicidal,
4 you know, having alcohol problems. There's a method to get
5 help that's relatively confidential.

6 In Tennessee, there's -- the Tennessee medical
7 federation, I think, has a place you call and they set you up
8 with a peer, and then everything that happens with that peer
9 is private as long as they feel like you're still practicing
10 safe medicine. And it's not reportable to medical boards, so
11 you won't lose your license, all that kind of stuff. They've
12 come a long way in those kind of accommodations for impaired
13 physicians.

14 Q. Hypothetically, if Mr. Young was, at the time of these
15 prescriptions, going through something traumatic, like a
16 divorce, does that somehow make any of these prescriptions
17 legitimate?

18 A. No, ma'am.

19 Q. Okay.

20 MS. PAYERLE: All right. The Government passes
21 the witness.

22 THE COURT: Thank you. Before we do cross, I
23 think we'll go ahead and take a break. We've been going for
24 about an hour-and-a-half or so. Okay.

25 MR. FERGUSON: I was going to ask, I need some

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1 time to get the exhibits together too.

2 THE COURT: Okay. We're going to take an
3 afternoon break, ladies and gentlemen of the jury. You've
4 heard quite a bit more testimony. We'll pick this up in
5 about 20 minutes or so. Okay. Leave your notebooks and
6 don't discuss. Don't discuss the testimony over the break.

7 (Jury out at 2:44 p.m.)

8 THE COURT: Okay. See everyone in about 20
9 minutes.

10 (A recess was taken from 2:45 p.m. to 3:15 p.m.)

11 THE COURT: Okay. Unless there's anything else,
12 are we ready?

13 MR. FERGUSON: We're ready.

14 THE COURT: Bring them in, please.

15 (Jury in at 3:15 p.m.)

16 THE COURT: Okay. Folks, I think we're ready to
17 push forward. So just have a seat.

18 I think it's time for cross, Mr. Ferguson?

19 MR. FERGUSON: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. FERGUSON:

22 Q. Good to see you again. I'm going to pass forward some
23 documents to you and have you take a look at them. You
24 previously testified that you had reviewed Hope Rogers'
25 records?

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1 THE COURT: Is that an exhibit?

2 MR. FERGUSON: It is not.

3 THE WITNESS: Yes, sir.

4 MR. FERGUSON: Your Honor, I ask that this be
5 made the next exhibit. It's Hope Rogers' patient file.

6 THE COURT: Patient file, and that will be 101.

7 (Exhibit 101 marked and received.)

8 BY MR. FERGUSON:

9 Q. I don't have much for you today. I'm going to try to
10 be quick, but I hopefully will get through it pretty fast.

11 A. Okay.

12 Q. Start off with a bad question. How much are you
13 getting paid in this case?

14 A. I've gotten paid, like, a lot of money, more than
15 probably my parents could have ever imagined. I started
16 doing this 20 years ago, and it was a way for me to make
17 extra money while my kids were little. They were asleep, and
18 almost never involved going to trial.

19 Q. Right.

20 A. Most expert witnesses make about \$500 an hour. I used
21 to charge less. One of the district attorneys a long time
22 ago said you look cheap. You have to charge more to be kind
23 of on par with the rest of them. And, undoubtedly, it's been
24 insane the amount of money that I never thought I would be
25 doing.

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1 Q. Do you make more money serving as an expert witness
2 than you do as a hospitalist?

3 A. Oh, definitely not.

4 Q. Definitely not?

5 A. No. No, no.

6 Q. In this case, you've already received about 44,000?

7 A. I think over the course of seven years, it's probably
8 about that.

9 Q. And I think you're contracted up to about 110 or
10 something?

11 A. Yeah, I don't think I'll get anywhere near that. They
12 always way overestimate.

13 Q. Okay. And to be fair, you're getting paid to be here
14 today?

15 A. Yes, sir.

16 Q. You got paid to review these records?

17 A. Yes, sir.

18 Q. It's a job. It's a real job, and it's something
19 that's -- it's perfectly legal to do that?

20 A. Yes, sir.

21 Q. Okay. So just on this one case, you're over \$40,000?

22 A. I'm taking your word for it. I would have to pull my
23 tax records for the last seven years, but that's probably
24 about right.

25 Q. Okay. Opioids are used to treat pain, correct?

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1 A. Yes, sir.

2 Q. I'm sorry. I talked over you, and I didn't get a bad
3 look. I'll try it again.

4 Opioids are used to treat pain?

5 A. Yes, sir.

6 Q. And, typically, or almost all times, you have to have
7 a prescription to get opioids?

8 A. Yes, sir.

9 Q. And in order to prescribe opioids, you have to be
10 licensed by the state as a medical or healthcare
11 professional?

12 A. Yes.

13 Q. And the states typically are the ones that are
14 responsible for overseeing licensed medical providers within
15 the state?

16 A. Right.

17 Q. If a -- somebody from the Tennessee Board of Nursing,
18 an investigator came in to speak to the jury, that would be
19 typically the first line of the people who oversee nurses?

20 A. Yes.

21 Q. You -- I want to go -- really, I just want to talk a
22 lot about Hope Rogers.

23 A. Okay.

24 Q. There's some real issues here. Hope Rogers, there was
25 prescribing of the hydrocodone and Xanax?

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1 A. It was hydrocodone and Xanax and oxycodone too.

2 Q. Okay. And Xanax, you say, is really counter -- it's
3 not what you want to be prescribing a pregnant woman?

4 A. Right. In terms of pregnancy class, A, B, C, D, X,
5 it's a D.

6 Q. Okay. Tell me what those mean. I heard you saying
7 that, but it never really -- never really told me what that
8 meant.

9 A. Right. Pregnancy Class A, there's no problems to take
10 in humans. There's very few medicines in that class. Like,
11 a few vitamins, thyroid medicine and stool softeners.

12 Q. All right.

13 A. Class B is that there are no known problems I think in
14 animal studies, so probably safe: Tylenol, prenatal
15 vitamins, some blood pressure medicines.

16 And C is that there's probably some animal studies
17 that shows that you shouldn't use them, and there's not good
18 human data. And so C is where opioids fall.

19 And D is animal studies definitely show harm, and
20 there's probably harm in human studies, and you really
21 shouldn't use Class D.

22 Class X is, for example, like thalidomide and other
23 medicines that are a hundred percent we know will cause
24 something bad to happen to the infant.

25 Q. That last one you said, that was the one in the '50s,

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1 '60s that caused babies to be born deformed?

2 A. Exactly. It's the one that caused the limb
3 malformations and shortened arms.

4 Q. Unfortunately, growing up we would have referred to
5 them as flipper babies. I mean, that's a horrible word. We
6 don't say it --

7 A. Yes, sir.

8 Q. That was the awful --

9 A. Probably politically incorrect these days.

10 Q. It is. There's a lot that is, but different
11 generations.

12 A. Yes.

13 Q. So D is -- it has a real potential of being harmful,
14 but it's not counter -- it's not just a flat out no. There
15 has to be some medical reason, and there has to be a real
16 serious review of the situation?

17 A. Correct. There has to be a very serious indication
18 that will show the benefit outweighs the risk. And in my
19 research on benzodiazepines, there just isn't. And the one I
20 read from the American College of Obstetrics and Gynecology,
21 it says there's really no indication to use benzodiazepines
22 in pregnancy.

23 Q. Which one has the black box warning?

24 A. So the benzodiazepines, when used with opioids, has a
25 black box warning.

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1 Q. And I've seen that. I don't know where it went to.
2 It was around here somewhere. Let's tell the jury what that
3 means. A black box warning is on the medication itself or on
4 the paperwork you get with it. There is a literal black box,
5 like, glaring at you that says: Warning, this could be a
6 dangerous combination, you must take special care with it,
7 and, please, if you can, find some other alternative?

8 A. Right. So it's there for benzodiazepines and opioids
9 in combination. And the black boxes are also on other kinds
10 of medicines that can have significant side effects.

11 Q. And the black box for the combination of opioids and
12 benzodiazepines, specifically, states that the risk is called
13 neonatal -- what's the babies born with?

14 A. Well, the black box warning is not for neonatal
15 abstinence syndrome. The black box warning is an overall
16 warning for all opioids and benzos because of the risk of
17 oversedation.

18 Q. Have you read it in a while? Have you looked at in a
19 while?

20 A. The black box on those, probably sometime in the last
21 couple of months, but not recently, no.

22 Q. Do you remember it saying if you're going to take it
23 in combination, you need to be, at least, prepared for that
24 outcome, and have a high-risk OB on board?

25 A. There's definitely -- if you're taking opioids and

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1 benzodiazepines, there definitely needs to be a high-risk
2 obstetrician or they call them a maternal-fetal medicine
3 onboard and ready, so that you see them before, and then when
4 you deliver, they're aware of the situation and can handle
5 the infant.

6 Q. And that's, in your opinion, would be the only safe
7 way to handle something like that -- not safe way. That's
8 the only way you could handle that if it had to be done?

9 A. Handle what exactly?

10 Q. If somebody had to be on both those drugs and was
11 pregnant, under the -- your professional opinion and the
12 black box warning, you must have neonatal or some specialist
13 on board to take care of the baby during delivery?

14 A. No. The appropriate thing to do would be for you to
15 change them to Suboxone or methadone, or find someone that
16 could, as well as have someone from maternal-fetal medicine
17 see you while you're still pregnant.

18 Q. Okay. But, again, the black box warning, it indicates
19 if it's going to be done, if it had to be done, if it
20 accidentally got done, however it got done, have a high-risk
21 OB on board?

22 A. Yes.

23 Q. Do you have any opinion on what the maximum number of
24 patients a day a healthcare provider should see?

25 A. So most of the studies I've read recently show that

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1 the average healthcare provider sees, in primary care, is
2 usually around 30. That depends. Internal medicine are
3 going to be less because your patients are older and sicker.
4 Family practice, you have those young kids that are easy, you
5 know, the cough/cold kind of thing, so it might be a little
6 bit more.

7 Q. Sixty would not be within the range of what a normal
8 healthcare provider should be seeing in a day?

9 A. Not independently, no, sir.

10 Q. Okay. You would not be able to provide them the
11 quality and level of care that would be necessary in order to
12 meet the standard of care?

13 A. No.

14 Q. And when we talk about the standard of care, have you
15 ever testified in civil cases before, or is it just criminal
16 cases?

17 A. I have given a deposition in a civil case. It went to
18 trial, and I was not needed.

19 Q. Okay. And in that case, were you asked to also
20 testify as to kind of the standard of care within that
21 profession?

22 A. Yes, it was a standard of care for hospital medicine,
23 and I was with the defense of the physician.

24 Q. Suboxone, tell me again what two drugs that was? You
25 said two different things.

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1 A. So it's naloxone, which is Narcan, and buprenorphine,
2 which is --

3 Q. Say that one again?

4 A. Buprenorphine.

5 Q. Spell it if you can.

6 A. Spelling is not my forte, B-U-P-R-E-N-O-R-P-H-I-N-E.
7 Close?

8 Q. Buprenorphine?

9 A. Buprenorphine, yes, sir.

10 Q. Buprenorphine?

11 A. How about just Suboxone?

12 Q. Suboxone?

13 A. There you go.

14 Q. I don't want to talk about the other drug. I just
15 want to talk about that drug. Is that drug -- is it
16 prescribed by itself at times?

17 A. It is prescribed. So buprenorphine was released to
18 help with opioid addiction and withdrawal. The problem was
19 that by itself it could still be injected and abused. So
20 they added Narcan to it, and when they added Narcan to it,
21 you could still use it, they call sublingually under your
22 tongue, but you can't inject it any more. That was a way to
23 make it abuse deterrent. But buprenorphine, yes, sir, is
24 used for addiction treatment.

25 Q. And is buprenorphine, if it's not Suboxone -- well, if

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1 it is Suboxone, would it say buprenorphine and --

2 A. -- naloxone.

3 Q. -- naloxone in the PMP, or would it just show the
4 opioid?

5 A. No, I think it should say both on the PMP.

6 Q. Okay. So if it's just by itself, then that's not
7 Suboxone, that's just the opioid?

8 A. Correct.

9 Q. Okay. You told the jury it's common for people to
10 take other people's medications. You're not happy with that,
11 but you agree that that's somewhat common within the field?

12 A. It unfortunately does happen. Shouldn't, but it does.

13 Q. Husband takes wife's medicines, boyfriend, girlfriend.
14 If you have access to it, you say, hey, let me try that back
15 pain medication to see if it works for me?

16 A. I suppose it does happen, yes, sir.

17 Q. Okay. The Government asked you a little bit about --
18 or you were talking a little bit about why it's so important
19 for doctors that are having problems, either personal or
20 mental or drugs, to seek help. Why -- again, why is that?

21 A. So the medical boards have learned through the years
22 that just punishing people for their addiction, whether it's
23 alcohol, drugs or mental health issues, it just doesn't work,
24 right? You just take their license away, and what that does
25 is scares people away from treatment. So it's much more

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1 kinder, gentler medical board in general for all the states,
2 and they want you to come to them and say, hey, I'm hurting,
3 I need help. And they're able to do that without you losing
4 your license or being affected.

5 Q. It's a risk when somebody has one of those problems
6 that they're going to make mistakes in their practice?

7 A. Yes, sir.

8 Q. That they're going to overlook things that they
9 normally wouldn't overlook?

10 A. Yes, sir, I would imagine.

11 Q. That practices are run into the ground every day by
12 doctors who are mentally ill or have drug or alcohol
13 problems?

14 A. I think that's an overgeneralization, but I'm sure it
15 happens. I don't know about every day.

16 Q. Okay. Fair enough. You've seen it happen before?

17 A. Yes, sir.

18 Q. Patients get hurt when it happens?

19 A. Usually, yes, sir.

20 Q. I'm going to pass back up Exhibit 101 to you. I just
21 want to ask you a couple of questions about it. Will you
22 just turn to the last page you have in there. Let's make
23 sure we have the same number of pages. At the very bottom,
24 do you see -- it may not be on there. Just tell me if it
25 is -- GX419281?

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1 A. It's 282 on mine.

2 Q. It is. I didn't turn the page over. So you're
3 holding a 282-page document?

4 A. Yes, sir.

5 Q. And the records kept within this clinic for Hope
6 Rogers is almost 300 pages?

7 A. Yes, sir.

8 Q. And if you go back to the beginning around page 3 or
9 4, there's an information sheet. It's the pink sheet. It
10 asks about insurance, secondary insurance, the normal stuff
11 that you'd expect to see in a patient's file.

12 A. Yes, sir.

13 Q. And that would be normal within the realm of a clinic.
14 You would expect to see this. You would expect to have a
15 file, and you would expect to see this paperwork at the
16 beginning?

17 A. Yes, sir.

18 Q. There at page 5, 6, there's authorization to disclose
19 protected healthcare records or information?

20 A. Yes.

21 Q. Common to expect to see that in a file?

22 A. Yes.

23 Q. Flipping the page over a couple, there's -- they took
24 copies of her insurance, took copies of her driver's license,
25 again, all pretty standard within the field of medicine to

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1 put that in the record?

2 A. Yes.

3 Q. And then it just starts going through. And you have
4 your -- I guess these are called -- well, what would you call
5 the forms at page 12 when it has the patient name and the
6 date and date of birth at the top? Is that a -- well, what
7 do you call it?

8 A. It's called a progress note.

9 Q. Progress note. And there should be one of these for
10 each time the patient comes in to visit with Mr. Young?

11 A. Yes, sir.

12 Q. Again, pretty standard in the industry to keep up with
13 your records like this?

14 A. Right.

15 Q. They're not the best records? They're not really
16 thorough?

17 A. No.

18 Q. And, again, that's your opinion?

19 A. Yes, sir.

20 Q. Now, flipping through to page 36, what is that?

21 A. Page 36 is a CT scan of the head that was done of Hope
22 Rogers on December 30, 2014.

23 Q. And it was done at the regional hospital of Jackson.
24 That's what we call a referral; is that correct?

25 Or let me back up. It was done at the regional

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1 hospital of Jackson?

2 A. Yes.

3 Q. Okay. And it's normal within the course of a medical
4 practitioner, especially maybe family practitioner, that if
5 they need testing done, if they want a CT done, they don't
6 have a CT in the back office, do they?

7 A. Sometimes, but --

8 Q. Family nurse practitioner?

9 A. Sometimes they do. Sometimes they have an MRI in the
10 parking lot. But, normally, they go -- it's a financial --
11 it's a money-making industry, radiology.

12 Q. Millions of dollars to have one of those, isn't it?

13 A. Yes, sir. But, normally, they just go down to the
14 local hospital with a prescription or a faxed order.

15 Q. Right. And so you're not surprised to see something
16 like this in a healthcare record that they needed some CT
17 scans done, so they sent them out to go get them done?

18 A. Yes.

19 Q. Let's go to -- let's go to 98. Do you have it?

20 A. Yes, sir.

21 Q. Okay. This is the one I think -- I think they asked
22 you questions about this or ones similar to this. Now, this
23 is -- the collection date is 4/13/2016, long after the birth
24 of her child in [REDACTED] of 2015, and it's got two inconsistent
25 tests that have been marked in yellow. And if I understand

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1 correctly, your testimony was -- the warning there is that
2 those are the metabolites. Had they consumed the pill, the
3 body would have broken it down so you want to see the drug
4 itself and the metabolite showing that it's in the body?

5 A. Yes, sir.

6 Q. Okay. So the two inconsistencies for the metabolites is
7 what causes you concern?

8 A. Right.

9 Q. And you believe and it would be your professional
10 opinion that a provider, if they see this, should take notice
11 and take warning of this?

12 A. Right. I don't know any other biologic way that it
13 could happen that you would not have the metabolite in your
14 system --

15 Q. Right.

16 A. -- but it would be in your urine. And if you thought
17 it was a lab error, you could just repeat it.

18 Q. If Hope Rogers had testified that at some point after
19 the birth of her baby, she began to sell her medication,
20 would this be consistent with her selling her medication?

21 A. It would be, and then maybe holding one back for the
22 test.

23 Q. And, again, it is in the records that you reviewed?

24 A. Yes, sir.

25 Q. And you see down here it appears that at some point

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1 she was counseled or asked questions about this testing?

2 A. Yes, sir.

3 Q. And she denied it. And the -- one of the
4 recommendations from the toxicology lab was to recollect or
5 retest the sample; is that correct?

6 A. Yes, sir.

7 Q. Any idea what that is right there?

8 A. It's a list of dates. I don't know what he's trying
9 to indicate, if it was previous drug tests or what.

10 Q. Okay. And so witnessed by -- and these are two
11 females, and this is a female patient. Would you -- if you
12 had a concern that they were breaking pills off and spiking
13 their urine, if you will, you would have maybe your female
14 staff observe the next urine sample?

15 MS. PAYERLE: Objection, Your Honor. This is
16 very speculative.

17 MR. FERGUSON: I'll rephrase.

18 BY MR. FERGUSON:

19 Q. Is it normal, within the field of urine screens within
20 the medical profession, that you don't let somebody go into
21 the bathroom and pee alone because they can spike it? If you
22 have concerns about that, you would ask for a witness sample?

23 A. Sometimes you do have somebody witness the sample
24 because they can spike the urine or bring in urine from home
25 that's somebody else's, but it's not clear to me that they

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1 witnessed her urinating or they witnessed her denying that
2 she took the medicine.

3 Q. All right. If you're concerned about fake pee
4 results, fake testing, what's the protocol? What's the
5 standard in the field?

6 A. I mean, I think I would call them in on a surprise,
7 say, like, not on their regular scheduled appointment. Call
8 them in and say, hey, we need a sample today. And if they're
9 taking their medicine as prescribed every day, then it would
10 be positive for the medicine and the metabolites.

11 Q. Would it also be within the standard of care to have
12 the observed samples?

13 A. You could, yes, sir.

14 Q. Okay. You say that you have great concern over the
15 hydrocodone and the alprazolam, correct?

16 A. Yes, sir.

17 Q. Can you explain to this jury why, I don't know, about
18 [REDACTED] months before she gave birth, the hospital in Jackson
19 was prescribing her hydrocodone along -- knowing that she was
20 on Xanax?

21 A. I can't explain that, no, sir. I know at one point
22 she did have an admission for some preterm labor. I'm not
23 sure if that correlated with the prescriptions you're talking
24 about.

25 Q. I'm going to show you page 52 in that exhibit. It

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1 says that Jackson medical admitted by her doctor, Armie
2 Walker, given Demerol and hydrocodone. You were able to
3 verify that, were you not?

4 A. I read through the hospital medical records, and she
5 was given those in the hospital, yes, sir.

6 Q. And you also see it at page 183 -- wow, I'm so
7 horrible these days -- 183. And, again, you can see that --
8 let me blow it up. Dr. Walker gives her 30 hydrocodone
9 pills, which has a MED, is that the daily MED? What is that,
10 MEE and MED?

11 A. Yes, the morphine milligram equivalent or morphine
12 equivalent dose.

13 Q. He prescribes her 112.5 MEDs in the hospital while
14 she's pregnant?

15 A. That doesn't make sense to me because it looks like
16 here she's getting hydrocodone 7.5 milligrams, a quantity of
17 30. It doesn't make sense that he wrote it for two days.
18 Nobody is going to take 15 hydrocodone with that much Tylenol
19 a day. So that's why the MED doesn't look right.

20 Q. I agree with you. Nobody takes it -- takes that much
21 in two days, do they?

22 A. No, sir. Well, they do, but it's not good.

23 Q. No doctor is prescribing that much?

24 A. No, sir.

25 Q. Okay. Thirty pills is probably more between 10 and 15

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1 days, if she's taking two to three a day?

2 A. I would think so.

3 Q. Which would drop this down probably by half or more?

4 A. Oh, way less. So if she took three a day, it would be
5 7.5 times three, I don't know, 20 something, 23, 24.

6 Q. Here's where she's taking, looks like, four a day.
7 And it's only 30?

8 A. Thirty, yes, sir.

9 Q. So -- but, again, her OB in the hospital is
10 prescribing her the medication that you're saying is outside
11 the normal scope and course of medical treatment?

12 A. Right. I think the only caveat to her OB prescribing
13 that is the situation surrounding her admission was preterm
14 labor, and if he thought the benefit outweighed the risk of
15 further labor. I can't really speak for him. I'm sorry.

16 Q. Right. All you can do is verify that Mr. Young wasn't
17 the only medical professional prescribing her these drugs
18 that you've just told the jury that no one prescribes?

19 A. No, I said no one would prescribe benzodiazepines for
20 sure. Opioids only in -- if you absolutely had to.

21 Q. When you were reading over these records, did you read
22 over the records of her high-risk OB?

23 A. Yes, sir, I did.

24 Q. So you were aware she had a high-risk OB?

25 A. She did, and it was a very thorough note.

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1 Q. Why didn't you tell the jury she had a high-risk OB?

2 A. Because she was on opioids and benzodiazepines, and
3 the baby was at risk for neonatal abstinence syndrome.

4 Q. Right. But you didn't tell the jury that?

5 A. I don't know if we talked about it.

6 Q. Did you tell the jury just a few minutes ago when the
7 Government was asking you questions that she had received the
8 same -- similar drugs from another doctor at the same time
9 that you're testifying here today while you're getting paid
10 against Mr. Young?

11 A. Her OB only prescribed 30 hydrocodone one time and
12 he -- the OB never prescribed benzodiazepines, so there's a
13 difference between the duration and the medications that were
14 given.

15 Q. And in the records you reviewed, they knew she was on
16 benzodiazepines?

17 A. They did.

18 Q. So he prescribed hydrocodone knowing she was on Xanax,
19 correct?

20 A. Yes.

21 Q. Thank you.

22 THE COURT: Thank you, Mr. Ferguson.

23 Any redirect?

24 MS. PAYERLE: Yes, Your Honor.

25

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1 REDIRECT EXAMINATION

2 BY MS. PAYERLE:

3 Q. Dr. Aultman, can you think of a legitimate medical
4 reason why a doctor may prescribe hydrocodone for a couple of
5 days while a patient in preterm labor is in the hospital?

6 A. Right. If you think whatever pain they're having --
7 it wasn't clear to me from the records, because I don't think
8 I have those records. I reviewed her hospital delivery
9 records. I'm not sure if I actually knew why she was in the
10 hospital. But if you thought that the benefit outweighed the
11 risk for a brief period of time, opioids are probably
12 indicated at that point. And I think it was also further
13 along in the pregnancy, which makes it much less dangerous
14 than the first trimester, which is the beginning of the
15 pregnancy when all the organs are being formed.

16 Q. So does the fact that a doctor may have prescribed
17 Hope Rogers hydrocodone for a very short period of time while
18 she was in the hospital for preterm labor change your opinion
19 about whether Mr. Young's ongoing and increasing
20 prescriptions of hydrocodone alongside Xanax were for a
21 legitimate medical purpose and within the course of
22 professional conduct?

23 A. It does not change my opinion.

24 MS. PAYERLE: Nothing further.

25 THE COURT: Thank you.

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1 Mr. Ferguson, anything further?

2 MR. FERGUSON: No, I don't think so. Thank you.

3 THE COURT: All right. You're quick on the draw
4 there, but you are excused. Thank you.

5 Government, if you would, please, call your next
6 witness.

7 MS. PAYERLE: Your Honor, at this time the
8 Government rests.

9 THE COURT: Okay. Thank you. I think you heard
10 the Government rests its case as far as in chief is
11 concerned. That alerts me that some issues I have to take up
12 with the lawyers. It's going to take a little longer than us
13 just going to side-bar like we've been doing. What that
14 means is I'm going to have to send you to the jury room for a
15 short time before we can proceed with the trial. Okay?

16 I'll take care of those things and get back to
17 you just as quickly as possible. Leave the notebooks. Don't
18 discuss, and I'm going to go ahead and excuse you to the jury
19 room.

20 (Jury out at 3:46 p.m.)

21 THE COURT: All right. Are there any motions?

22 MR. FERGUSON: There are, Your Honor. It's going
23 to take me just a moment to pull up the indictment. I want
24 to have it in front of me when I walk through.

25 THE COURT: Do you need a few minutes?

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1 MR. FERGUSON: It just takes me about 30 seconds,
2 probably.

3 THE COURT: Okay.

4 MR. FERGUSON: Yes, please. It's either that or
5 try to dig through all the paperwork to find it.

6 THE COURT: We're not in recess. Y'all can be
7 seated.

8 MR. FERGUSON: Your Honor, if I may.

9 THE COURT: Go ahead.

10 MR. FERGUSON: Thank you. On behalf of Jeffrey
11 Young, at this time, defense makes a motion for judgment of
12 acquittal on the indictment. There's some specific issues in
13 which the Government's proof is lacking such that this case
14 should not be -- should not move forward at this point.

15 Count 1, obviously, charges a conspiracy in this
16 count. One of the key -- obviously, the number one feature
17 of conspiracy is an agreement between two or more people to
18 do something that's illegal. The case here, originally,
19 while I understand it, says -- it doesn't say known or
20 unknown. It just says that defendants Jeffrey Young,
21 Alexander Alperovich and Andrew Rudin did knowingly and
22 intentionally combine, conspire, confederate and agree --
23 here it is -- with each other and others unknown -- there it
24 is. I knew it was in there somewhere -- to distribute
25 Schedule II substances. I haven't heard any proof of

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1 conspiracy or agreement among anyone. In fact --

2 THE COURT: Among what was it?

3 MR. FERGUSON: Among anyone.

4 THE COURT: Oh, anyone.

5 MR. FERGUSON: Of course, they always throw in
6 the language known and unknown. It's always kind of wait to
7 see who shows up to court to testify. Well, out of the three
8 named people, Jeff Young didn't testify, nor is there any
9 proof in any of his many statements that he had made some
10 agreement with other people to sell or prescribe these drugs
11 to the patients.

12 And that's one of the things we have to keep in
13 mind here is that the patients are -- in the state's case,
14 they're the target of this conspiracy. They're not the
15 coconspirators. They're the target to sell them and to
16 prescribe them the medication to addict them to keep them
17 coming in so that other people can make money off the
18 practice and that -- and in their words, the illegal drug
19 sales.

20 Dr. Alperovich was very clear, and I was very
21 specific to ask him was it -- was it your understanding --
22 was it your intent, your agreement -- did you two have an
23 agreement to sell drugs, to prescribe drugs? And he said no.

24 There's been no testimony from Dr. Rudin. And
25 there's been nobody who has come in and said that there was a

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1 conspiracy.

2 Even when Kristie Gutsell came in, she was asked
3 had she pled guilty to something, and she said, yes, but she
4 did not -- there was no questioning of her as to what the --
5 what the agreement was, if there was an agreement, was
6 Mr. Young part of that agreement. Just that she had pled
7 guilty and was awaiting sentencing.

8 So as far as the conspiracy goes, there's been no
9 testimony to support a conspiracy in this case.

10 In the second through, I think it's Count 7, that
11 is the dispensing to Hope Rogers and not for a legitimate
12 medical purpose. The proof has been that she was a patient.
13 She was being seen by him. He was treating her and
14 prescribing her medication while at the office. There's no
15 allegation that he was trying to sleep with her, and that's
16 not part of Counts 2 through 7. The proof has been to this
17 point and, again, through the Government's last witness that
18 there were other physicians prescribing her hydrocodone.

19 And so if it's -- apparently, there are other
20 physicians prescribing her the same medication that they're
21 trying to say was somehow outside the normal scope and course
22 of the medical professional within a medical setting, then I
23 don't think that that's adequate proof to present Counts 2
24 through 7 to the jury.

25 Eight through 14, again, those are the two

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1 undercover officers. So -- and in the indictment they have
2 patient in quotes because they weren't patients. They were
3 undercover officers. Again, the testimony has been they came
4 into the office. They made complaints of pain. The
5 prescriptions -- again, the experts testified that opioids
6 are to treat pain. They complained of pain. They were given
7 prescriptions for pain and that that would be consistent.
8 It's been on video. It's, obviously, in his office. It's
9 within the normal course and scope of his practice. He was
10 licensed when he did it. He interviewed them.

11 While it might have been pathetically short and
12 underwhelming by all accounts, it was still: What are you
13 here for, what are your symptoms, what's helped you in the
14 past, let's start and try this. There was testimony from
15 Mr. Young through the nursing board that he was asked what do
16 you do if it doesn't work. I can titrate up to twice. And I
17 believe -- I think on both these cases, they were only
18 titrated twice.

19 But, again, it's consistent with what he said
20 that was his means and manner of treating pain within his
21 clinic. And nothing in it indicates that, again, that the
22 prescriptions were for anything outside the normal course and
23 scope of his practice. If for some reason these officers --
24 that's why we were very keyed in to ask them: Did he ask you
25 for sex, did he try to have sex with you. Obviously, that

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1 makes it a very -- it would be very damaging to us if that
2 had been the outcome or that had been the -- his
3 conversations with them. That would, obviously, be something
4 the Government would be able to hang their hat on saying the
5 reasoning for these prescriptions was for something other
6 than to treat the complaint, that it was to bribe them, if
7 you will, into sex. That's not what happened here. He had
8 the -- there was nothing that indicated he was doing anything
9 other than meeting with them, investigating their claims of
10 pain and prescribing medication as he thought was
11 appropriate.

12 Based on that, I think -- and, I guess, with all
13 of those, naturally, 15 would fall, which is holding out a --
14 maintaining a drug involved premise and that just naturally
15 would fall if the other falls. So I'd ask Your Honor to
16 enter a judgment of acquittal on these cases.

17 THE COURT: Thank you.

18 Government, who will it be? Mr. Pennebaker?

19 MR. PENNEBAKER: Yes, Your Honor. Briefly.

20 The argument about the insufficient evidence of
21 conspiracy in Count 1, starting with the three individuals
22 that are named in the indictment, Ms. Gutgsell was -- I'm
23 sorry. I'm just making sure I go back to the top of the
24 indictment here. So you have a -- Dr. Alperovich testifying
25 that he couldn't have done -- that Mr. Young couldn't have

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1 done what he did without Dr. Alperovich supervising the
2 practice. So that's evidence of a conspiracy with
3 Dr. Alperovich that's sufficient at least to go to the jury
4 as a disputed fact, a question of fact.

5 There are other individuals, Dr. Alston, one of
6 the precepting physicians early on in the practice that
7 Ms. Gutgsell testified he oversaw the practice of the clinic.
8 He signed records. The records at that time as the
9 Government's expert testified were abysmal just like they
10 were the entire time. That's evidence of a conspiratorial
11 agreement between that precepting physician, who was getting
12 paid for precepting, and the defendant.

13 Dr. Rudin, the perfect preceptor that we had
14 evidence on. There's conspiracy evidence in the record as
15 far as that individual is concerned. And then, in addition,
16 the Government's 800 series, there are indicia that Mr. Young
17 is prescribing to some of these patients after determining,
18 after finding out, after seeing red flags that they're
19 selling their pills.

20 So, again, that goes beyond a patient/physician
21 relationship and into a conspiring with someone else to
22 facilitate the ultimate distribution of those drugs for
23 purposes other than medical practice. So that's the
24 Government's response to the motion to dismiss Count 1.

25 THE COURT: Before we go on to the other counts,

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1 tell me again proof in the record with Dr. Rudin.

2 MR. PENNEBAKER: Dr. Rudin was the perfect
3 preceptor that I believe Ms. Gutgsell testified. We saw some
4 text messages between Mr. Young and Ms. Gutgsell where
5 Ms. Gutgsell talks about how hard Dr. Rudin is to track down
6 to get him to sign records, to get him to see -- you know, to
7 perform his supervisory function in the practice. And
8 Mr. Young responds to Ms. Gutgsell's frustration with the
9 phrase "the perfect preceptor," which is an allusion to the
10 fact that he's basically nonexistent, just covering, signing
11 for the practice, allowing the defendant to continue to do
12 his -- to do his diversion with drugs.

13 There was also testimony that Dr. Rudin was a
14 friend, that he lived in Chicago, that he never came to the
15 clinic, that he took a thousand dollars for covering for the
16 practice, basically.

17 THE COURT: And so that supports the conspiracy
18 agreement?

19 MR. PENNEBAKER: Yes, Your Honor.

20 THE COURT: Okay. Go ahead.

21 MR. PENNEBAKER: The arguments about the
22 dispensing to Ms. Rogers, we've got specific opinions in the
23 record from the Government on the issue of whether or not
24 those prescriptions that are charged in the indictment were
25 issued outside the scope of professional practice without a

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1 legitimate medical purpose, and the expert concluded that,
2 yes, each one of them was issued outside the scope. We've
3 also got the patient testifying she didn't need those drugs.
4 In addition to other evidence that suggested that it's
5 outside the scope. There's a lot of it. So I won't go over
6 it all, Your Honor.

7 Then the counts involving the undercover, I
8 believe that the expert testified as to one of those
9 prescriptions -- no, no, as to one of them that had the
10 undercover actually taken the drugs, that she would have been
11 killed. I think that's probably sufficient to meet the
12 burden to show that the prescription there was outside the
13 scope. The expert also opined that each one of those
14 prescriptions was issued outside the scope.

15 The jury saw the consults and there's been
16 testimony from Shirley Pickering, from the Government's
17 expert, and even Mr. Young on the recordings of medical
18 boards seems to acknowledge that these things were the scope
19 of professional practice claiming that he did these things
20 and contrast that with the video of the undercovers that
21 showed, basically, that he did none of them. So all of that
22 is evidence that supports a conviction on any of those
23 counts.

24 Then the drug involved premises, the Government
25 established through multiple witnesses that Mr. Young owned

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1 and maintained that premises, that he was -- that he was
2 paying the rent there. That Ms. Goslee, I know, testified
3 that he was the owner and the operator. We even heard him
4 say on the Rock Doc TV that -- you know, sort of saying, hey,
5 this is my place. I'm the owner, president, et cetera, of
6 PREVENTAGENIX.

7 THE COURT: All right. Thank you.

8 Mr. Ferguson, anything further?

9 MR. FERGUSON: No, Your Honor. I've made my
10 points. Thank you.

11 THE COURT: Okay. Well, my job in dealing with
12 these motions, I have to determine whether a reasonable jury
13 viewing the evidence in the light most favorable to the
14 Government could find the defendant guilty beyond a
15 reasonable doubt. I don't make any comments or anything
16 about credibility, and I'm not really weighing the evidence.
17 The real question is in the light most favorable to the
18 Government, are there really jury issues; and my finding is
19 that for all the counts, there are decisions that the jury is
20 going to ultimately have to make.

21 As for the conspiracy, things Mr. Pennebaker
22 makes with regard to Rudin are true. The testimony came in
23 through the testimony. I can't remember her name, but she
24 was the office manager that he was, as it turned out in the
25 communications, was said to be the perfect preceptor. Never

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1 showed up, little or no review of the records. That does
2 support a conclusion of a -- an agreement between two or more
3 people, Rudin and, of course, Mr. Young. Now, of course, the
4 agreement doesn't have to be formal or written or anything
5 like that, but it does indicate that relationship.

6 Also, Dr. Alperovich -- I'm probably
7 mispronouncing that -- testified that they entered into an
8 agreement, a written agreement, if I'm not mistaken. I know
9 it wasn't introduced into evidence. He said early on he
10 didn't think anything would be wrong with it; but y'all
11 correct me if I'm wrong, he reviewed the documents the first
12 time he went there. He saw that they were inadequate, bad.
13 He should have stopped it at that time, but he did not.

14 So the jury will have to determine when the
15 conspiracy came into being, but there are definitely facts,
16 testimony from witnesses that indicate that there's an
17 agreement to do this. And, of course, the defendant,
18 Mr. Young, couldn't do this without having the doctors'
19 oversight, even though for some periods of time, he did. He
20 used the stamp and continued to do it in those times when no
21 doctor was available. But there are indications in the
22 record -- of course, the jury will ultimately make the
23 decision that there is an agreement between the defendant and
24 at least one other person to commit the crimes.

25 Counts 2 through 7, Rogers being pregnant at the

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1 time, the last witness was unequivocal that the way the --
2 Ms. Rogers was treated was definitely outside the course of
3 professional practice. The testimony about the scripts that
4 were given to Rogers specifically while she was pregnant, was
5 outside that scope, and it could lead to criminal
6 responsibility.

7 So, again, based upon the evidence and looking at
8 it in the light most favorable to the Government, there are
9 issues that the jury is going to ultimately make, and so the
10 motion in that regard is also denied.

11 And, similarly, the undercover officers who
12 testified, we saw the videos, scripts were given to them.
13 Again, the last witness indicated that reviewing all of that,
14 again, the medical treatment and issuance of the
15 prescriptions was outside that course of professional
16 practice, at least for the State of Tennessee.

17 Again, the jury is just going to have to make the
18 final decision. They viewed all the evidence, as I did,
19 while it was coming in. And I -- but on all the counts --
20 and I agree with you, Mr. Ferguson, Count 15 rides with the
21 other counts. And so the jury, in viewing all the evidence
22 in the light most favorable, there are issues that the jury
23 could return verdicts of guilty on. And so for those
24 reasons, the motion is denied.

25 MR. FERGUSON: Your Honor, if I may. I just want

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1 to make sure it's clear on the record. The agreement between
2 my client and Dr. Alperovich that's been mentioned in this
3 trial was the supervision agreement, the legal document
4 detailing that there was a contractual relationship between
5 the doctor to be the preceptor of Mr. Young.

6 THE COURT: Was that document introduced? I
7 didn't think it was. Maybe I'm wrong.

8 MR. FERGUSON: I don't think it ever got in.

9 THE COURT: I know there was testimony about it,
10 but I don't think anyone ever introduced it.

11 MR. FERGUSON: Well, I wasn't expecting it to be
12 brought up in the motion of judgment for acquittal either.
13 That's the agreement was a preceptor agreement. Clearly,
14 there wasn't a written agreement to distribute Schedule II
15 drugs.

16 THE COURT: Right. I didn't think it was an
17 agreement to distribute the drugs, but there was an agreement
18 between the two. It started, at least, with that document;
19 but I also focus in when the doctor went there that first
20 time, saw the charts, the records. And I think he said he
21 should have put a stop to it at that time, or at least talked
22 with your client about it but chose not to. That was the
23 worst decision, of course, he said in his life, and it cost
24 him. That all, taken together, indicates an agreement to --
25 you know, to issue these scripts as the way they were.

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1 MR. FERGUSON: I was just -- I didn't want there
2 to be any argument that there was a written agreement to be
3 distributing Schedule II drugs illegally.

4 THE COURT: No. No. But there was testimony
5 about an agreement that they both -- a written agreement that
6 they entered into.

7 MR. FERGUSON: Yes, Your Honor.

8 THE COURT: Okay. I'm assuming, Mr. Ferguson, no
9 change, there will be no proof from the defense?

10 MR. FERGUSON: That's correct, Your Honor. I
11 thank you for the time to review it further with my client.

12 THE COURT: Yeah, we need to put it on the
13 record.

14 MR. FERGUSON: Do you want him to be on the
15 stand?

16 THE COURT: Yes, please. Have him come up, if
17 you would, please. And before you get there, I need to place
18 you under oath. So if you would, please, raise your right
19 hand.

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